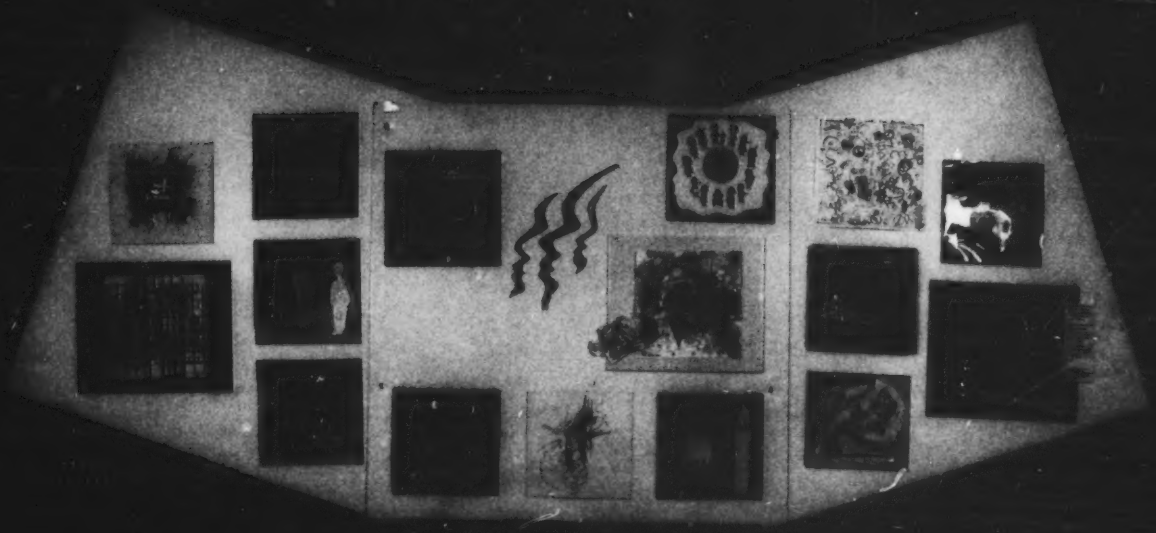
1990 Annual Report



THE MANITOBA
HUMAN RIGHTS
COMMISSION

L'A COMMISSION DES
DROITS DE LA PERSONNE
DU MANITOBA

LA COMMISSION DES
DROITS DE LA PERSONNE
DU MANITOBA

THE MANITOBA
HUMAN RIGHTS
COMMISSION

1990 Annual Report

The Manitoba Human Rights Commission
301 — 259 Portage Avenue
Winnipeg, Manitoba
R3B 2A9
(204) 945-3007

Room 115, P.O. Box 2550
Provincial Government Building
The Pas, Manitoba
R9A 1M4
(204) 623-6411 (Ext. 270)

Provincial Government Building
340 — Ninth Street
Brandon, Manitoba
R7A 6C2
(204) 726-6261

Toll Free Numbers:
1-800-282-8069 (Winnipeg)
1-800-572-1040 (Brandon)

Telecommunications Device for
Hearing and Speech Impaired:
(204) 945-3442 (Winnipeg)

92-04019/

Cover: The front cover is a reproduction of the mural created to celebrate in 1990, the 20th Anniversary of both the Manitoba Human Rights Commission and Folklorama — Canada's Festival of Nations. The mural was created by thirteen (13) artists who volunteered their time and creative abilities. The Commission wishes to thank:

Arnold Ross
Paul Guilleminot
Lisa A. Scouten
Tyrrell Mendis
Jorge Figueroa
Judith Panson
Toni Martinez
Deanna Woloskoski
Christopher Sikorsky
Roger V. Sutherland
Donalda Johnson
Ernest Fedaras
Josef Goba

A special thank you to Arnold Ross who also assembled the mural.

The mural was unveiled during a special ceremony at the Legislative Building on August 14th, 1990. The Minister for Culture, Heritage and Citizenship, the Honourable Bonnie Mitchelson, offered a permanent home to the mural at the Multicultural Secretariat.

Minister of Justice
and
Attorney General

Room 104
Legislative Building
Winnipeg, Manitoba, CANADA
R3C 0V8

His Honour
The Honourable George Johnson, M.D.,
Lieutenant-Governor of Manitoba

Sir:

May it please your Honour, it is my pleasure to present to your Honour, the Annual Report of The Manitoba Human Rights Commission for the year 1990.

Respectfully submitted,

James C. McCrae

LA COMMISSION DES
DROITS DE LA PERSONNE
DU MANITOBA

THE MANITOBA
HUMAN RIGHTS
COMMISSION

The Honourable James McCrae
Attorney-General
Legislative Building
Winnipeg, Manitoba
R3C 0V8

Sir:

We are pleased to forward to you, the Minister responsible for administration of the Manitoba Human Rights Code, the Annual Report of the Manitoba Human Rights Commission for the calendar year ending December 31, 1990.

Kenneth Filkow, Q.C.
Chair

Table of Contents

Page

The Function of the Commission 4

Personnel 8

The Commissioners 9

The Staff 12

An Overview of 1990 Activities 13

Advisory Opinions 17

Legal Proceedings 21

Sample Complaints 25

Statistics 32

Appendix A — Publications and Audio-Visual Materials 38

Appendix B — The Complaint Form 41

Appendix C — Public Education Policy 42

The Function of the Manitoba Human Rights Commission

The Universal Declaration of Human Rights declares that: "All human beings are born free and equal in dignity and rights." In Manitoba, this ideal has been translated into law by *The Human Rights Code*, a provincial statute which prohibits discrimination on the basis of ancestry, nationality, religion, sex, age, disability, or other group stereotypes.

The Manitoba Human Rights Commission is the agency responsible for carrying out the provisions of *The Human Rights Code*. The Commission is authorized by *The Code* to accept and investigate complaints of discrimination and to attempt to settle substantiated complaints; to carry out educational activities, and to issue binding advisory opinions. Through these activities, the Commission attempts to reduce discrimination and promote social change leading to equal opportunity for all.

All services provided by the Commission are available to the public without charge.

Enforcement

The Human Rights Code prohibits unreasonable discrimination which is based on group characteristics such as ancestry, nationality, ethnic origin, religion, age, sex, pregnancy and other gender-determined characteristics, sexual orientation, marital or family status, source of income, political belief, and physical or mental disability.

The jurisdiction of the Human Rights Commission is restricted to matters within the constitutional authority of the provincial legislature. Most activities carried on in the province fall within provincial jurisdiction. However complaints against certain federally regulated enterprises, such as airlines, railways and the federal civil service, should be filed with the Canadian Human Rights Commission (telephone 983-2189). The staff of either Commission will answer any questions regarding the appropriate jurisdiction to deal with a particular complaint.

Complaints of Discrimination:

Any person who believes that someone has contravened a provision of *The Human Rights Code* is invited to contact any one of the Commission's offices in Winnipeg, Brandon, or The Pas and discuss his or her concerns with an Intake officer. All calls are confidential and the Commission will not act without the caller's consent. If the issue falls within the jurisdiction and scope of *The Code*, the details of the allegation are recorded and the Officer arranges an appointment to meet with the complainant to obtain a signed Complaint of Discrimination. A copy of this form is included as Appendix B.

The signed complaint form is then served (generally by mail) on the party who has been accused of the discriminatory behaviour (the respondent), and he or she is invited to provide a formal reply to the allegations.

Following the receipt of the reply and review with the complainant, the matter can sometimes be referred directly to the Board of Commissioners for disposition. In other cases this preliminary investigation does not produce sufficient evidence for the Commission to fairly and properly dispose of the matter and it is necessary for it to be forwarded for a full investigation.

As soon as possible, an officer is assigned to conduct a thorough investigation of the allegations and the response. At this stage, it is the investigating officer's responsibility to determine the facts of the case and to ensure that the rights of both parties are fully protected. On conclusion of the investigation, the findings are assessed. If the allegation does not appear to be supported by the evidence, the staff report will recommend dismissal. If it appears to be justified, attempts are made to resolve the matter through conciliation.

Conciliation is a process common to most Canadian human rights complaint procedures. This allows for complaints to be voluntarily resolved by the parties concerned without adjudication. All matters related to the conciliation stage are confidential and without prejudice. In this stage, the officer will mediate between the parties, ensuring that they fully understand the process and are able to make informed decisions regarding the initiation or acceptance of any settlement proposal.

One point that should be stressed is that neither the staff nor the Board of Commissioners has the authority to order compensation or remedies for persons who feel they have suffered as a result of discrimination. If it appears that *The Code* has been violated and efforts to reach a mutually agreeable settlement have been unsuccessful, the only further action which may be taken by the Commission is to request the appointment of a Board of Adjudication, or to recommend prosecution.

The Board of Adjudication consists of an Adjudicator who is appointed by the Minister of Justice to hold a formal public hearing. All parties to the complaint are invited to present their arguments. Witnesses may be called and are subject to cross-examination. The Commission has the carriage of the complaint and is represented by legal counsel. The respondent and the complainant may also be represented by legal counsel if they wish.

If the Adjudicator, after hearing all the evidence, rules that a contravention of *The Human Rights Code* has occurred, he or she has the authority to make an order requiring the respondent to comply with *The Code;* to provide the denied service, employment, or housing; to pay lost wages or out-of-pocket expenses incurred by the complainant; or to pay other damages as may be deemed appropriate by the Adjudicator. If there has been evidence of an ongoing practice of discrimination, the Adjudicator may order the

respondent to implement an affirmative action plan or other special program and may direct the Commission to assist in the supervision or implementation of the program.

If any party disagrees with an Adjudicator's decision, he or she may apply to the Court of Queen's Bench for a review of the order within the time limit set out in *The Code*. In some cases, the matter may be appealed to the Manitoba Court of Appeal and even to the Supreme Court of Canada.

With the consent of the Minister of Justice, criminal proceedings may be launched in certain cases where criminal prosecution for violation of *The Code* appears appropriate. If a person is found guilty in these proceedings, he or she may be subject to a fine of not more than two thousand dollars for an individual or ten thousand dollars for a corporation.

A chart of the Usual Steps in Processing Complaints can be found at the end of this section.

Advisory Opinions:

To assist the person who feels obliged to consider certain group characteristics when making business decisions but who wishes to ensure that the distinction is not discriminatory. *The Human Rights Code* has provided for binding advisory opinions to be issued by the Manitoba Human Rights Commission.

Any person who is responsible for the implementation of a practice or activity which is within the jurisdiction of *The Code* may apply for an advisory opinion. (An application form may be obtained from any of the offices of the Commission.) When the application is received, it will be assessed to ensure that an advisory opinion would be appropriate and any concerns in this regard will be discussed with the applicant.

As soon as possible, the application will be assigned to an officer who will carry out further research as required. This may include interviews with the applicant or other persons knowledgeable about the issues involved. The results of this research will be discussed with the applicant who will be given the opportunity to revise or modify the proposed practice or activity to bring it into compliance with *The Code*. At the conclusion of this process, the Commission may issue a formal and binding advisory opinion. The opinion will include a full description of the practice or activity and will contain the reasons for the determination.

If an advisory opinion states that a practice or activity is not contravening *The Human Rights Code*, no Complaint of Discrimination will be acted upon by the Commission as long as the opinion remains in effect.

In general, an advisory opinion will remain in effect for as long as the fact situation upon which it is based remains accurate. The Commission may, however, revoke or modify an advisory opinion for other reasons, such as precedent-setting rulings by a Board of Adjudication or the Courts. When an opinion is to be revoked or modified, it remains in effect until the Commission formally notifies the business or organization who requested the opinion.

If any person believes that an advisory opinion issued by the Commission is inappropriate, he or she may request that the opinion be revoked or modified. The Commission will consider such requests and take the appropriate action.

All advisory opinions issued by the Commission will be accessible to the public for inspection and will be reported in the annual report of the Commission.

Education

It has long been understood by human rights practitioners that discrimination cannot be overcome by relying totally on the resolution of individual complaints. While persons who have been subjected to illegal discrimination must certainly have access to the remedies to which they are entitled under the law, there are some discriminatory practices which are more effectively dealt with through other means.

For example, there are many instances of illegal discrimination which are not brought to the attention of the Commission. Sometimes the victim may not be aware of his or her rights to a remedy under the law or may choose not to complain for a variety of reasons. In addition, negative and hostile attitudes based on prejudice and stereotypes often arise in situations which are beyond the jurisdiction of human rights legislation. Children taunt each other in the streets and playgrounds with racial slurs; people are humiliated and embarrassed when confronted with bigotry and prejudice in social settings or in public places; and neighbourhoods are torn apart by racism and intolerance.

The Supreme Court of Canada has, on numerous occasions, noted the special nature of "discrimination" as a legislatively prohibited activity. It has stated that the legislation is intended to be "remedial" rather than "punitive" and emphasized that the primary function of the Human Rights Commission is to change public behaviour and attitudes. In this context, the importance of the educational and persuasive role of the Commission is clearly evident.

The Human Rights Code acknowledges that a combination of approaches is necessary to effectively combat discrimination and its immediate and historical effect, and mandates a variety of activities.

In addition to the requirement that the Commission accept and investigate formal complaints and issue advisory opinions, Section 4 of *The Code* states that the Commission is required to carry out programs which will forward the principle that every person is free and equal in dignity and rights, promote an understanding of and compliance with *The Code*, and ensure that the residents of Manitoba understand their civil and legal rights.

In order to ensure that maximum benefits are obtained from limited resources, the Commission annually reviews and, if appropriate, adjusts its education priorities for the coming year. These priorities are

reflected in the Public Education Policy which is included as Appendix C to this report.

Speaker Services Program:

The Commission's education activities include speaker services through which Commissioners and members of the staff are available to speak to groups about the rights and responsibilities described in *The Code* or any other topic related to human rights. Persons wishing to utilize the speaker service should contact the Human Rights Intake Officer.

This program also includes outreach and other public relations activities intended to maintain an ongoing liaison with various sectors of the community, and to assist and encourage community initiatives in activities designed to further the principles of human rights.

Special Projects:

The Commission develops and conducts a wide variety of special education projects such as seminars, workshops, and contests. Other projects may involve the development of publications to inform the public about the work of the Commission and the rights and responsibilities set out in *The Human Rights Code*. These and other publications and audio-visual materials are loaned or distributed free of charge to the public.

National and International Liaison

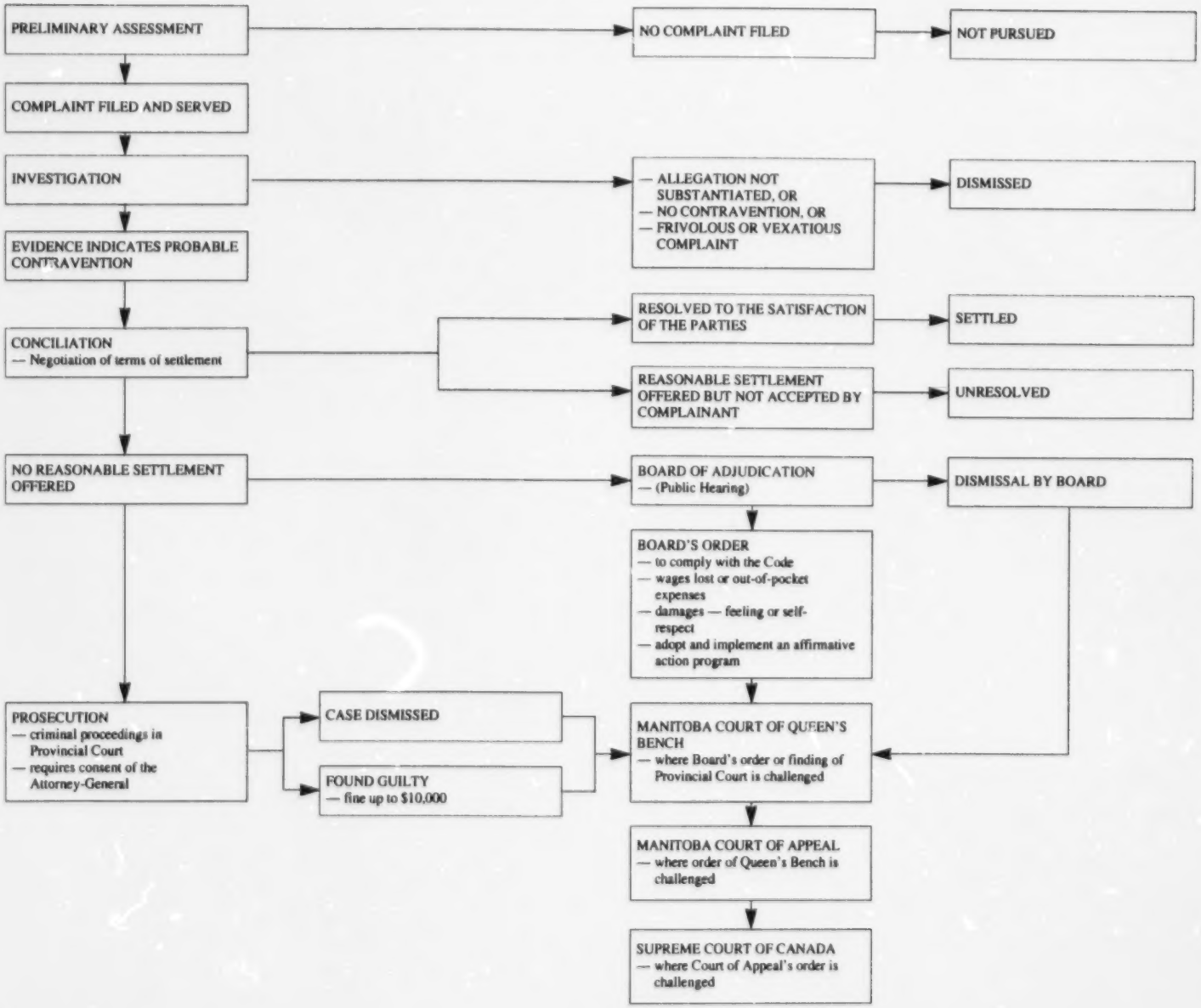
The Manitoba Human Rights Commission is a member agency of three national and international organizations concerned with human rights. These are the Canadian Association of Statutory Human Rights Agencies (CASHRA), the International Association of Official Human Rights Agencies (IAOHRA), and the National Association of Human Rights Workers. Through membership in these organizations the Commissioners and staff are able to keep informed about recent developments in the field of human rights law and education and are able to participate in various staff development and training opportunities. Membership also facilitates the contribution of the knowledge gained from our own experiences and insights to the evolution of human rights theory and legislation.

Another important national organization is the Continuing Committee of Human Rights Officials. This Committee consists of representatives of the federal, provincial, and territorial governments, and is responsible for monitoring Canada's compliance with the various international conventions relating to human rights to which Canada is a party. The mandate of the Continuing Committee encompasses all human rights issues which form the basis of the international instruments. This includes economic rights, civil and political rights, the rights to be free from disappearance and torture, and many other human rights issues. While such matters do not fall directly within the mandate of the Commission, freedom from discrimination and human rights education are the subjects of many of these instruments and are addressed in specific provisions of others.

The Commission contributes to the work of this committee by taking responsibility for the preparation of reports to the United Nations on such matters as the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Elimination of Racial Discrimination, and on activities related to the celebration of Human Rights Day (December 10th) in the Province of Manitoba. In addition, the Executive Director has been designated by the Minister of Justice to provide assistance and backup to the Government of Manitoba's official representative to the Committee.

Through the Committee, new and emerging human rights issues are brought to the attention of Ministers Responsible for Human Rights from all Canadian jurisdictions at regular Ministerial Conferences.

Usual Steps in Processing Complaints


PRELIMINARY ASSESSMENT
NO COMPLAINT FILED
NOT PURSUED
COMPLAINT FILED AND SERVED
INVESTIGATION
— ALLEGATION NOT SUBSTANTIATED, OR
— NO CONTRAVENTION, OR
— FRIVOLOUS OR VEXATIOUS COMPLAINT
DISMISSED
EVIDENCE INDICATES PROBABLE CONTRAVENTION
CONCILIATION
— Negotiation of terms of settlement
RESOLVED TO THE SATISFACTION OF THE PARTIES
SETTLED
REASONABLE SETTLEMENT OFFERED BUT NOT ACCEPTED BY COMPLAINANT
UNRESOLVED
NO REASONABLE SETTLEMENT OFFERED
BOARD OF ADJUDICATION
— (Public Hearing)
DISMISSAL BY BOARD
BOARD'S ORDER
— to comply with the Code
— wages lost or out-of-pocket expenses
— damages — feeling or self-respect
— adopt and implement an affirmative action program
PROSECUTION
— criminal proceedings in Provincial Court
— requires consent of the Attorney-General
CASE DISMISSED
FOUND GUILTY
— fine up to $10,000
MANITOBA COURT OF QUEEN'S BENCH
— where Board's order or finding of Provincial Court is challenged
MANITOBA COURT OF APPEAL
— where order of Queen's Bench is challenged
SUPREME COURT OF CANADA
— where Court of Appeal's order is challenged

Personnel

The Manitoba Human Rights Commission consists of two components. One component is the Board of Commissioners, chosen from the public at large by the Lieutenant Governor-In-Council. The Board meets on a monthly basis and is responsible for the policies and general direction of the Commission. The second component is the civil service staff, which carries out the day-to-day activities of the Commission.

The Responsibilities of the Board of Commissioners

Commissioners are selected from various geographic, cultural, social, and economic sectors of the province. They are appointed for three year terms on a staggered basis, and serve on a part-time basis. There are thirteen Commissioners, one of whom is the Chairperson and another the Vice-Chairperson.

The Board of Commissioners establishes the policies which determine the manner in which the professional staff administer the programs and activities of the agency. It is also the function of the Board to determine the appropriate disposition of all complaints, and to issue binding advisory opinions.

The Duties of the Staff

Human rights work is a demanding profession. Human rights professionals are constantly placed in sensitive situations, and they must bring to their work a wide variety of skills. They are required to be effective listeners and to have the ability to relate to persons from varied backgrounds, while maintaining neutrality and objectivity.

The Intake Officers respond to all inquiries from the public and will assist in the filing of formal complaints. They will accept requests for speaker services, provide information regarding other services of the Commission, and assist callers to reach appropriate alternate agencies if *The Human Rights Code* does not appear to be applicable. When workloads permit, intake staff will also assist in the development and delivery of educational programs and services.

The Human Rights Officers conduct the investigation and conciliation of complaints, the assessment of advisory opinion applications, and a variety of educational activities. Officers assigned to the Public Programs Unit are primarily responsible for education and will work with business, community groups, and other institutions and organizations in the delivery of human rights education programs. Officers assigned to the Compliance Unit are primarily responsible for complaints and advisory opinions. Coupled with investigative skills, these officers must also be able to negotiate settlements between often hostile parties without compromising the intent of *The Code*.

The quality and efficiency of the work carried out by the Commission is greatly enhanced by a small complement of competent and dedicated support staff who provide the necessary administrative support services.

In each of the Commission's regional offices, the Regional Human Rights Officer investigates and conciliates complaints, conducts educational activities, and supervises the general administration of the office. The Officers are supported by the Regional Intake Officer who responds to inquiries, accepts complaints, and provides clerical and secretarial support services.

The staff work under the direction of the Executive Director, who is responsible to both the Board of Commissioners and the Department of Justice for the effective operation of the Commission.

The Commissioners

Chairperson:
Kenneth Filkow, Q.C.

Commissioners: (As at December 31, 1990)

	Term Expires
Kenneth Filkow, Q.C.....Chairperson	1991
Molly Robinson.....Vice-Chairperson	1991
Marianne Bossen .....Commissioner	1991
Polly Pow.....Commissioner	1991
Ed Wood.....Commissioner	1991
Dave Wowchuk .....Commissioner	1992
Sonia Cruz .....Commissioner	1992
George Hoy.....Commissioner	1992
Raymond Hall.....Commissioner	1993
Raj Mehta .....Commissioner	1993
June Walker .....Commissioner	1993
Amarjeet Warraich .....Commissioner	1993
(one vacancy)	

Minister:

The Honourable James C. McCrae,
Minister of Justice
and Attorney-General

Other Commissioners Who Served During 1990:

Brigitte Graba	Resigned
Francesco Grande	Term Expired
Socorro Juan	Term Expired
Marion Robinsong	Term Expired
Lorraine Sigurdson	Term Expired
Kue Young	Term Expired
Robert Laine	Resigned

The Commissioners:

KENNETH FILKOW, Q.C. — Chairperson

Kenneth Filkow has been a practicing lawyer in the City of Winnipeg since 1966. Spanning the years he has represented litigants in many trials in which civil, human and economic rights or positions have been an issue. He has also presided as an arbitrator determining such matters. He is a past member of the Board of Directors of Legal Aid Manitoba and past Chairperson of the Civil Justice & Criminal Justice divisions of the Manitoba Bar Association.

MOIRA (MOLLY) ROBINSON — Vice Chairperson

Molly Robinson is the Chief Executive Officer for the Thompson YWCA, which serves Thompson and the region. She has resided in that city for 28 years and has been instrumental in the founding of many services, organizations and facilities for her community. She has served on local, regional, provincial and national boards at the executive level. Ms. Robinson, served on City of Thompson Council for six years, and is also a published poet, artist and writer. This is her second appointment to the Human Rights Commission, having served from 1978 to 1981.

MARIANNE BOSSEN

Marianne Bossen, M.A. (Econ.) is a Consultant on Employment and Social Policy. She has pioneered research into equal opportunities for women in employment. In recent years, prompted by personal experience with disability, she has become involved in the concerns of physically handicapped persons. She serves on the Board of Management of the Canadian Paraplegic Association (Manitoba Division).

SONIA CRUZ

Sonia Cruz was born and raised in Paranaque, Philippines and received her B.S. in Social Work from the Philippine School of Social Work, before migrating to Canada in 1979. She has worked with the elderly for a number of years and is currently employed as an activity therapist for the Day Hospital Program of Seven Oaks General Hospital. Ms. Cruz is active in the Filipino community and in 1986 served as President of the former Barangay Filipino Organization of Manitoba.

RAYMOND HALL

Raymond Hall was born in Alberta, raised in British Columbia, and has lived in Manitoba since 1975. He is employed as a Captain with Air Canada, and practices technology and employment law with Taylor McCaffrey Capman Sigurdson in Winnipeg. He holds a Bachelor of Administrative Studies Degree from the University of Winnipeg, and Bachelor of Laws and Master of Business Administration Degrees from the University of Manitoba. Mr. Hall has published several articles in computer and aviation periodicals and journals, and is primarily interested in the human consequences of technological change in the workplace.

GEORGE HOY

George Hoy was born in Hong Kong and has lived in Canada since 1951. Until 1965, he owned restaurants in Carman and Killarney. Until retiring recently, he was in the restaurant business with a Winnipeg hotel for the past 25 years.

RAJ MEHTA

Raj Mehta, B.Sc., LL.B., is General Manager of Lansy Enterprises Ltd. He is dedicated to the cause of human rights and is active in various cultural and community groups. Mr. Mehta served as President of the Winnipeg Chapter of the National Association of Canadians of Origins in India and is a member of the Multicultural Advisory Committee.

PAULETTE (POLLY) POW

Polly Pow, a resident of Neepawa, is employed by the Human Resources Opportunity Centre in Brandon. She is currently co-ordinating the Vocational Preparation Program at Assiniboine Community College. Ms. Pow is an active member of the Neepawa community, participating on various committees. Professionally, she has worked in areas dealing with issues relating to family violence, child care and housing.

JUNE WALKER

June Walker, born and educated in Northern Ireland emigrated to Canada in 1957. She has been active in church and community work for the past 26 years and has served on a number of federal and provincial boards. Ms. Walker is currently a supervisor with the School Lunch Program. Her current volunteer activities are in the area of fund raising for the Kidney Foundation, Multiple Sclerosis Society and the Salvation Army.

AMARJEET S. WARRAICH

Amarjeet Warraich was born in Punjab, India and migrated to Winnipeg in 1972. He is dedicated to the cause of human rights and is actively involved in various cultural and community organizations. Mr Warraich is Vice-President for the Manitoba Region of the National Association of Canadians of Origins in India and Vice-President of the India Association of Winnipeg.

ED WOOD

Ed Wood was born in St. Theresa Point, Manitoba and graduated from the Manitoba Technical Institute in 1956. He was employed with The Hudson Bay Company and both the Ontario and Manitoba Provincial Governments before starting his own building material supply company in 1974. Mr. Wood is active in a variety of business associations, church and other community groups.

DAVE WOWCHUK

Dave Wowchuk is the Executive Manager of the Brandon based Western Fertilizer and Chemical Dealers Association and holds directorship positions on both the Western Canadian Fertilizer Association, as well as the Canadian Fertilizer Institute. Mr. Wowchuk is an active member of the community of Brandon participating on committees of national sporting events and the local Chamber of Commerce. In his volunteer work, he has also held the positions of Rural Campaign Director and Brandon Chapter President for the Manitoba Heart and Stroke Foundation.

The Staff (As at December 31, 1990)

Executive Director:
Durlene Germscheid

Administrative Support Services
Administrative Officer:
- Linda Kopys

Administrative Secretaries:
- Frieda Brandt
- Donna Harland
- Donna May
- Jeannette Roque
- Maureen Sorokowski

The Pas Office
Regional Human Rights Officer:
- Ronald Chief

Regional Intake Officer:
- Elizabeth Bennett

Public Programs
Co-ordinator:
- Patricia St. Loe

Education Officers:
- Judith Burch
- Richard Ludwick

Intake Officers:
- Barbara Delorme
- Derek Legge

Legal Counsel:
- Aaron Berg
- Civil Litigation Branch
- Department of Justice

Compliance
Director of Compliance:
- (vacant)

Team Supervisors:
- Asfia Sultan
- Sharon Wickman

Enforcement Officers:
- Debra Beauchamp
- Patrick Daly
- Nancy Flintoft Meronek
- Victor Schwartzman
- Kenneth Swain
- Stan Wood
- Roger Young

Brandon Office
Regional Human Rights Officer:
- Peggy McLachlan

Regional Intake Officer:
- Ida Erickson

An Overview of 1990 Activities

Nineteen-ninety marked the twentieth anniversary of the proclamation of *The Human Rights Act* in Manitoba. When *The Act* came into force in August of 1970, Manitoba became the fifth Canadian jurisdiction to adopt comprehensive anti-discrimination legislation and to establish a Human Rights Commission.

Several anniversary events took place over the year including one event in which the Commission joined with The Folk Arts Council of Winnipeg, Inc. who were celebrating the twentieth year of Folklorama — Canada's Festival of Nations. Fourteen Manitoba artists contributed their talents to the celebration as well. At the Council's Annual Arts and Crafts Show which took place from August 3-5, 1990, the artists worked at an information booth staffed by the Commission where they produced the individual pieces which became the elements of the wonderful mural which is featured on the cover of this year's annual report. "The people of Manitoba" created one of the pieces as over one hundred members of the public accepted the invitation to make their mark on one canvas.

On August 13th, the mural was unveiled by the Honourable Bonnie Mitchelson, Minister of Culture, Heritage and Citizenship, at a ceremony in the Legislative Building. It is now on display at the offices of the Multiculturalism Secretariat.

The Honourable Bonnie Mitchelson, Minister of Culture, Heritage and Citizenship, at the August 13th ceremony, offered a permanent home for the mural at the Multicultural Secretariat.

With the assistance of the Manitoba Telephone System, the Commission was able to promote awareness of its twentieth anniversary throughout Manitoba with the inclusion of a brief message in all telephone bills mailed during the month of August.

The loss of two staff members from supervisory/management positions in the Compliance Unit had a significant impact on the Commission's activities during 1990. For a time the Executive Director assumed almost all of the duties of the Director of Compliance; staff time for supervisory functions had to be drawn from time normally expended on complaints; and the reassignment of duties required the expenditure of considerably more time on training.

Although the year began with the expectation of further initiatives in many areas, it became evident that the major thrust for 1990 would be the management of these dramatic changes.

Personnel Changes

Commissioners

Four new commissioners were appointed early in 1990 to replace commissioners whose terms had expired during 1989. In order to ensure that four terms expire each year as required by *The Human Rights Code*, these appointments were made for terms of less than three years and will expire in 1992.

Four additional terms expired in 1990, and two members of the Commission resigned for personal reasons. Two of the commissioners were reappointed and three of the vacancies filled with the appointment of new members. One vacancy remains at year end.

A complete list of current commissioners and their biographies can be found earlier in this report.

Staff

There were a number of changes to the staff of the Commission during 1990. The Commission lost the services of The Director of Compliance and a Compliance Team Supervisor. Mariann Burka and Buelah Adams have moved on to new challenges in other human rights agencies.

The responsibilities of the Director of Compliance were assumed by former Compliance Team Supervisor, Sharon Wickman; and Asfia Sultan was promoted from Human Rights Officer to the position of Compliance Supervisor. While these changes were under consideration, Human Rights Officer Pat Daly assisted by temporarily assuming the duties of Compliance Team Supervisor.

The two new employees who joined the Commission during the year were Ida Erickson and Richard Ludwick. Ida Erickson was hired to fill the position of Intake Officer in the Brandon Office and Richard Ludwick joined the Winnipeg staff as a Human Rights Officer. There is one vacant position remaining at the time of this writing.

Compliance Activities

Although the changes with respect to key positions within the Compliance Unit did result in some loss of staff time for the processing of compliance files, this was offset to some extent by a reduction of approximately 20% in the number of incoming complaints.

New steps in the complaint process which had been introduced in 1989 appear to have contributed to a significant reduction of the backlog during 1990. These changes to the complaint process permitted early assessment and, where there was no reasonable basis for ongoing investigation, complaints were referred directly to the Board of Commissioners for disposition. While this procedure requires some additional activity during the preliminary assessment phase of the complaint process, a 12% increase in the closure of formal complaints over 1989 indicates that there is an overall increase in efficiency.

In midyear, the Commission incorporated the disclosure of the investigative reports into its complaint procedures. The report, which is prepared by staff and contains a summary of the evidence and a recommendation for disposition of the complaint, is provided to the parties before it is submitted to the Board of Commissioners. Should either party wish to provide further information with respect to the complaint or to challenge any aspect of the staff report, he or she may do so in writing and this submission will be presented to the Commissioners along with the report.

Due to the staff changes in the Unit, it was necessary to delay the planned training in new investigation and conciliation techniques, along with the pilot project to facilitate the incorporation of such techniques into the compliance process. It is intended that these initiatives will be implemented during 1991.

During the past year, the Commission determined that thirteen complaints, which could not be resolved through voluntary conciliation, should be referred to adjudication. As some of these complaints dealt with the same issues or parties, the Minister was requested to appoint nine boards of adjudication to hear and decide these matters. Only one board hearing was completed during the year and the matter was not decided by the end of the year.

During 1990, an examination of the policies and procedures with respect to advisory opinions was initiated. Concerned with a reduction in the number of applications, the Commission determined that an effort should be made to ensure that advisory opinions could be provided in a timely and efficient manner. This is deemed to be particularly important when the subject of the opinion is affirmative action or other special program. It is anticipated that new procedures for more efficient processing of advisory opinions will be implemented during the coming year.

Educational Activities

During 1990, the Commission continued to give priority to those educational activities designed to be preventative in nature.

Business Education

Continuing with the program of business education, staff provided educational workshops to government departments, private businesses, and unions, in many instances bringing about changes to the policies and practices of the business or organization. Consultations to business increased to 15 for 1990 from 4 the previous year.

Commission staff also worked closely with Government to produce a departmental policy on workplace harassment and to provide seminars to M.L.A.s from all parties and to the Civil Service Commission on the importance of gender-fair and gender-neutral language.

The Commission continues to provide useful resource publications to business and, in 1990, a revised version of The Housing Guidelines was approved for publication. It is expected to be distributed to the industry early in the new year.

Schools

In 1989, a manual was developed to provide school administrators with guidelines for the administration of schools in keeping with human rights principles (see 1989 Annual Report). This year, nine schools are involved in a pilot of the manual, and it has been distributed to a large number of agencies for a preliminary review. At the end of the year, there had been a 25% response rate from the community and the reaction in general has been encouragingly positive.

Another project from the previous year was the publication of a revised version of the Inventory of Human Rights Teaching Materials. In 1990, this publication was distributed to every junior and senior high school in the province. It is expected that this will be a valuable resource to facilitate the teaching of human rights in these classrooms.

Speaker Services

This service continues to be well known and well used in the community. Speakers from both education and compliance staff, as well as commissioners, are provided to groups and organizations on request. Increasing concern for the elimination of the backlog, a focus on new initiatives, and staff shortages at year end created a significant strain on resources but, in spite of this, the Commission was able to meet the demand. Approximately twenty more requests were received in 1990 as compared to the previous year, and most of these new requests came from the business community.

International Decade of Disabled Persons

To promote the objectives of this Decade and to improve our service to persons with disabilities, the Commission began a program of providing our print materials in alternative formats. Large print and audio cassette versions of the fact sheets, and relevant portions of *The Code* and the Annual Report were produced. Audio cassettes have been professionally produced and are available on request.

Second International Decade for Action to Combat Racism

In addition to the many other projects and speaking engagements which addressed the issue of racism in our community, Commission staff joined with a coalition of groups and individuals in the planning of events for the promotion of March 21st as the International Day for the Elimination of Racism.

Human Rights Day/Journalism Award

In 1990, the Commission joined forces with the Community Legal Education Association (CLEA) to celebrate Human Rights Day. Commission staff assisted with the planning of CLEA's annual Human Rights Conference on December 10th and both staff and commissioners were involved in the program.

One of the major events was the Commission's traditional candle-lighting ceremony which included the presentation of The Human Rights Journalism Award. The Award, co-sponsored by The Manitoba Human Rights Commission and the Winnipeg Press Club was presented to Dan Lett for his series of articles about David Milgaard. Alexandra Paul received an honourable mention for her series "Secrecy on Trial". Both articles were published in the Winnipeg Free Press.

As it has done in previous years, the Commission sent out the usual request for all levels of government in the province to issue a proclamation of Human Rights Day or Human Rights Week. Eight municipal governments who had issued proclamations in 1989 did so again in 1990; and they were joined by eight others. The complete list is as follows:

The City of Brandon

The Rural Municipality of Brokenhead

The Rural Municipality of Dauphin

The Town of Gimli

The Town of Leaf Rapids

The Town of Morden

The Village of Niverville

The Village of Riverton

The Town of Selkirk

The Rural Municipality of Springfield

The Village of Ste. Rose Du Lac

The Town of Swan River

The Rural Municipality of Tache

The City of Thompson

The Rural Municipality of Victoria

The Village of Winnipegosis

National and International Events

During 1990, the Commission was able to participate in the activities of the Canadian Association of Statutory Human Rights Agencies (CASHRA) through the attendance of the Chairperson and the Executive Director at the Annual Conference and Business Meeting in Whitehorse, Yukon, and at a special meeting in Charlottetown, P.E.I. a few months later. The Executive Director continued to serve on the CASHRA Executive. The Commission also continued its involvement with the newly formed Standing Committee on Human Rights Training.

In July, the Commission was represented at the Annual Conference of the International Association of Official Human Rights Agencies (IAOHRA) by the Executive Director. Participating on an all-Canadian panel addressing issues of discrimination against women, she spoke on the subject of sexual harassment and, in particular, the Manitoba case which had recently been decided by the Supreme Court of Canada. Near the end of the year, the Executive Director was asked to serve as the Canadian representative to IAOHRA for the remaining six months of the term which had become vacant as a result of the death of Doug Wilson of the British Columbia Council of Human Rights.

Future Directions

As indicated in the 1989 Annual Report, it is a goal of the Manitoba Human Rights Commission "to develop a strategy for the delivery of its programs and services which will allow for the identification of priority issues and the mobilization of resources to effectively address these issues". Working towards this goal, staff and commissioners attended a Future Directions Planning Conference in March of 1990.

In their deliberations, they acknowledged that it was very difficult to embark on a new approach when confronted with the existing backlog of complaints. Encouraged by the positive effects of recent procedural changes, the Commission determined that efforts to increase efficiency of the complaint process would continue to be a priority for the coming year.

Acknowledging the importance of this "visible" backlog, the Commission also noted that there existed an "invisible backlog" consisting of the many issues which did not lend themselves to resolution through the complaint process, and reaffirmed their commitment to the implementation of a more systemic and focussed approach to the fulfillment of the mandate.

To this end, they established a subcommittee of staff and commissioners with the task of planning for the timely implementation of a new "issues approach". Although the work of the committee was impeded by the loss of key staff later in the year, the August meeting of the Board of Commissioners produced the following policy statement:

> *The Commission has determined that there are certain larger issues of equality which it is required to address in conjunction with addressing individual complaints of discrimination. The Commission recognizes, however, that individuals who are experiencing discrimination must have access to remedies, and that the Commission has a statutory responsibility to accept and investigate complaints of discrimination. Acknowledging that a significant portion of Commission resources will continue to be committed to this function, the Commission will ensure the most efficient use of these resources by seeking out informal and more flexible methods for dealing with individual concerns and formal complaints.*

By the end of the year, many new initiatives in the processing of complaints had produced a cumulative effect of a reduction in the complaint backlog. It is anticipated that the coming year will see the implementation of a more focussed "issue-oriented" approach to the planning and delivery of services and programs.

Advisory Opinions

The Human Rights Code includes provisions for persons subject to the prohibitions of *The Code* to obtain a written binding "advisory opinion" as to whether any act or omission by them is in compliance with or contravenes *The Code. The Code* also requires that such advisory opinions be available for public inspection and be summarized in the Commission's Annual Report.

The following are summaries of advisory opinions issued by the Commission in 1990:

Special Program/Persons with Disabilities

Application:

The Department of Highways and Transportation of the Government of Manitoba applied for an advisory opinion concerning its practice of providing provincial, municipal and organizational sponsored specialized transportation exclusively for the mobility disadvantaged under the Program for the Transportation of the Mobility Disadvantaged in Rural Manitoba.

Background:

The Program is designed to assist communities in providing transportation services for mobility disadvantaged persons in rural Manitoba. "Mobility disadvantaged persons" are defined by the Applicant as "Any individual who by reason of illness, injury, age, congenital malfunction or other permanent or temporary incapacity or disability is unable without special facility or special planning or design to utilize available transportation facilities."

The Program requires a municipal government or governments to act as sponsor of the service in the community. Grants are provided to assist in defraying the costs of establishing specialized transportation services, including the costs of acquiring and operating handivan vehicles. The community is responsible for raising 62% of the gross operating expenses for its service.

In 1987, thirty-two rural communities sponsored twenty-nine handivan programs. User fees ranged from 75¢ to $4.00 per trip within town, depending on such factors as the degree of volunteer involvement in the program and the average distance travelled per trip. The average actual cost per trip in 1986 was $7.48. Participating communities in 1987, provided users with a total of 101,000 trips, of which a third were for employment or school purposes, a third for medical or adult day care purposes, and the remaining third for shopping, business and recreation.

In 1988, the Applicant undertook a study of users of the Program, and reported that 56% were age 75 and over, 33% had a visual impairment, 35% a physical impairment, 50% of users used a mobility aid, and 25% had a condition of forgetfulness such as Alzheimer's disease. The study also showed that 75% of the users of the Program were female, and the majority of users had an average total family income of $10,757 per year. The study determined that nearly 10% of users surveyed would likely need to move into a personal care home if the Program was not available in their communities.

Opinion:

The Human Rights Code prohibits discrimination in the provision of services *unless bona fide and reasonable cause exists. The Code* also stipulates that it is not discrimination to plan, advertise or implement a special program which "...has as its object, the amelioration of conditions of disadvantaged individuals or groups...and achieves or is reasonably likely to achieve that object." The Applicant says that its practice of restricting its transportation program to persons who are mobility disadvantaged is justified as a "special program", and seeks to ameliorate a lack of safe, affordable and suitable transportation for persons in rural Manitoba who have special needs due to disability and advanced age.

The Commission determined that the Applicant's practice of providing government and organizational sponsored specialized transportation services exclusively to persons who by reason of age or disability are unable to utilize available transportation facilities in rural Manitoba without special facility planning or design is not in contravention of *The Human Rights Code.* The Commission concluded that the Applicant's transportation program met the conditions of a special program within the meaning of Section 11 of *The Code* and that the restriction of service to persons who are mobility disadvantaged is bona fide and reasonable.

Employment (Hiring)/Sex as a Bona Fide Occupational Requirement

Application:

Hydra House Limited applied for an advisory opinion with regard to their practice of hiring same sex caregivers for residents of group homes.

Background:

Hydra House Limited operates four residential group homes. All residents are either mentally ill or recovering from mental illness or mentally disabled. Each home is occupied by residents of both sexes, and each home has its own staff. The group home provides 24 hour care for people that need constant support for the daily pattern of living. A great deal of intimate personal care is needed. Residents need assistance for such intimate tasks as bathing, toiletting, and dressing. The Applicant indicated that due to the intimate nature of the assistance required, a same sex caregiver is needed. It was felt by the Applicant that it would be both sexually and socially inappropriate to have such intimate services provided to residents by a staff member of the opposite sex.

In an effort to integrate the residents with the community, frequent trips and visits within the community are made as part of the socializing process. When a public washroom is used by a resident that needs help in toiletting, the Applicant maintains that public decency requires a same sex attendant. Further, residents need assistance in changing and drying themselves when visiting public swimming pools. Changing rooms in all public pools are segregated by sex. Privacy from the opposite sex is a social norm. The Applicant therefore suggests that if a female resident were to be assisted to change clothing by a male attendant, both public decency and personal dignity of the client would be offended.

Opinion:

Section 14(1) of *The Code* prohibits discrimination with respect to employment or occupation, unless the discrimination is based upon bona fide and reasonable requirements or qualifications for the employment or occupation. Section 9 of *The Code* defines sex as a prohibited ground of discrimination. Section 14(8) of *The Code* states that "It is a bona fide and reasonable requirement or qualification where, in choosing a person to provide personal services in a private residence, the employer discriminates for the bona fide purpose of fostering or maintaining a desired environment within the residence...". Personal services are also defined under Section 14(9) to mean work of a domestic, custodial, companionship, personal care, child care or educational nature, or other work within the residence that involves frequent contact or communication with persons who live in the residence. Although a group home does not constitute a private residence per se, certain parallels are evident. The group home's intent is to provide as near as possible, normal living arrangements.

In the case of McKale vs. Lamont Auxiliary Hospital and Nursing Home District #23, an Alberta Board of Inquiry found that Lamont Auxiliary Hospital's express preference for hiring a male was not a violation of *The Individual Rights Protection Act* because being male was a bona fide occupational qualification for the position. The Board of Inquiry found that the Hospital required a complement of male staff to attend those male residents who objected to intimate care such as bathing, being provided by a female attendant. In this case, Judge Duncan Steward remarked "In my opinion the nature of intimate care and the expression of preference by a resident for a male attendant involves a recognition of an individual's feelings and decency which are not simply unreasonable or beyond the normal public standards of decency in the social structure."

The Commission concluded that the Applicant's practice of selecting qualified staff to fill vacancies by allowing the applicant's sex to be the determining factor appears to be a bona fide and reasonable qualification for the occupation described.

Special Program/Training/Youths, Social Allowance Recipients, Single Parents, Persons with Disabilities, Immigrants, Visible Minorities and Aboriginal People

Application:

The Youth Business Learning and Development Centre, Inc. applied for an advisory opinion regarding whether their training program constituted a valid Special Program under *The Human Rights Code*.

Background:

Youth Business Learning and Development Centre Inc. and Educare is a non-profit corporation and is administered and financed by the private sector, in addition to securing contracts from the Government of Canada, the Province of Manitoba, and the City of Winnipeg.

The Youth Business Learning and Development Centre has a practice of limiting eligibility for their training program to disadvantaged adults with priority given to youths, social assistance recipients, persons who are physically disabled, single parents, immigrants and members of minority groups. The program includes all the elements of a special program. For example the program's objective is to provide employment disadvantaged adults with sufficient job specific training to become competitive in the labour market. The program is aimed at those people who do not have adjustment skills to succeed in the larger training institutions and who find it difficult to secure employment because they lack education, job specific skills and work experience.

The selection process involves the completion of a questionnaire and a self-declaration by the applicants as to their membership in the designated target groups. First selection priority from among applicants who meet the basic criteria is given to those candidates who fall into the target groups.

The Youth Business Learning and Development Centre, Inc. provided supportive data to demonstrate the disadvantaged status of the target groups in question.

Opinion:

The Human Rights Code prohibits discrimination in services on the basis of group characteristics such as age, source of income, family status, ethnic origin or nationality. However, *The Code* also clearly stipulates that it is not discriminatory to plan, advertise or implement a special program.

The Commission determined that the Centre's training program met the criteria for a valid Special Program as set out in Section 11(b) of *The Code* in that it "has as its object the amelioration of conditions of disadvantaged individuals or groups, including those who are disadvantaged because of any characteristics referred to in subsection 9(2) and achieves or is reasonably likely to achieve that objective."

Special Program/Workers Aged 55 to 64 Years Old

Application:

The Department of Labour of the Government of Manitoba applied for an advisory opinion regarding its participation in the Program for Older Worker Adjustment (P.O.W.A.), a joint venture with the Government of Canada. The Program's age restriction for eligibility for benefits was the basis for the Applicant's request for an Advisory Opinion.

Background:

P.O.W.A. provides monthly income supplements to eligible individuals who are age 55 to 64 years, are affected by a major lay-off and have little prospect of employment. Eligible workers can receive income assistance following the exhaustion of Unemployment Insurance Benefits.

Workers affected by those major permanent lay-offs that are selected for the Program are eligible for benefits if they are between the ages of 55 and 64 at the time of lay-off, have been in the labour force for 15 of the previous 20 years, and have no alternative job opportunities or prospects for re-employment through job training or relocation. They must be Canadian citizens or landed immigrants, and resident in Canada. P.O.W.A. provides income assistance to a level that is between unemployment insurance and social assistance. Benefits are payable to the recipient until age 65.

The Applicant reported that in 1987-88, over 1500 workers in Manitoba were laid off indefinitely. It said that studies show that unemployment among laid-off workers is more than double the rate for the labour force as a whole, that laid-off workers remain unemployed for longer periods, and that the consequences for the target group of older workers are more severe. It provided data from a 1987 Statistics Canada survey which supported the considerable difficulty of older workers who have lost their job in locating employment.

Opinion:

The Commission was satisfied that the Applicant's undertaking in the Program for Older Worker Adjustment is not in contravention of *The Human Rights Code*. The Commission determined that P.O.W.A. is a special program within the meaning of Section 11 of *The Code*, designed to ameliorate the disadvantage of older workers who have experienced a permanent lay-off.

Employment (Hiring)/Gender (Female) as a Bona Fide Occupational Requirement

Application:

Villa Rosa Inc. applied for an advisory opinion regarding its practice of hiring female only staff to fill designated positions within its program of services.

Background:

Villa Rosa Inc. is a non-profit, charitable organization which provides services primarily to young pregnant women and new mothers. It operates a residence for 25 young, pregnant women and a post-natal residence for four young mothers and their infants. It also runs a day program at its Parent/Child Centre for about seventeen students, as well as many support and follow-up programs.

The Applicant hires females only to fill the positions of residential staff, cook, nurse, social workers, staff positions in the Parent/Child Centre, the Co-ordinator of Post-Natal Residence, the Volunteer Co-ordinator and the volunteer positions that are characterized by direct involvement with the girls in residence.

Duties of the various positions encompassed by this Opinion include supervision of the residents, most of whom are 15-19 years of age, and working on tasks in areas of the residence where new mothers are nursing their infants, responding to the needs of the girls and young women and their infants and providing nursing care and emotional support that is responsive to a variety of issues relating to pregnancy, birth, nursing and infant care, as well as to sexual assault and incest.

In all of the positions encompassed by the application, the Applicant emphasized the necessity to maintain the safety and confidence of the girls and women in need of its services. The need to respect the privacy of the residents and to maintain public decency was also of concern to the Applicant, as was the desire to provide positive role models for the young mothers.

Opinion:

The Commission concluded that being female is a bona fide and reasonable requirement for the described positions, in accordance with Section 14(1) of *The Code* and is necessary to meet the privacy, safety, well-being and care needs of the Applicant's clients. The Commission was satisfied that the Applicant's practice was not based on a stereotypical view of the roles or relative abilities of men and women, but was intended to respond to the special needs of its clients.

Employment (Terms and Conditions)/Age (51 and Older) as Bona Fide and Reasonable Differential Treatment

Application:

Manitoba Telephone System applied for an advisory opinion regarding a modification to its vacation banking policy which for superannuation purposes, allows an employee in the vacation year in which the employee reaches his or her 51st birthday, to bank up to ten (10) vacation days annually, up to a maximum of 50 days.

Background:

The Applicant advised that the practice of allowing employees to bank vacations was implemented to reflect changes to *The Civil Service Superannuation Act* and to permit employees to take advantage of this change. The Applicant indicated that the differential treatment on the basis of age resulting from the policy was a business necessity in that to allow younger employees to bank vacation days for superannuation purposes would pose an undue financial hardship on the corporation.

Opinion:

The Commission examined the alternative of using number of years of service as the criteria for banking vacation for superannuation purposes instead of age. The Commission is of the view that this alternative could have an adverse impact on some employees. For example, women often experience interruptions in their labor force participation due to child care responsibilities and therefore using years of service as a criteria could affect them adversely as a group.

The Commission concluded that the Applicant's modified policy is bona fide and reasonable. The differential treatment of employees on the basis of age under this policy would not result in serious adverse job consequences or loss of benefits, nor would it negatively affect equality of opportunity with respect to employment for those employees who are under age 51. All employees, when they reach age 51, will have the same opportunity to bank vacation credits for superannuation purposes.

Signs and Notices/Dress Code

Application:

The Manitoba Lotteries Foundation requested an advisory opinion with respect to terminology of a public notice describing a dress code for the Crystal Casino located in the City of Winnipeg.

Background:

The Applicant advised that "the intent of the dress code is to ensure that visitors to the Crystal Casino are dressed in a style reflective of the type of casino/entertainment being offered. We will admit any person, man or women, semi-formally attired. The staff at the Crystal Casino have been informed that for greater clarity, this is meant to include any person dressed in a semi-formal ethnically representative manner. As well, persons dressed in a cultural costume during the celebration of cultural events in Manitoba will be admitted..."

It was the Applicant's intention to provide public notice of the dress code through the inclusion of one of the following phrases in its advertising and signage:

1) Jacket and tie or equivalent dress

2) Jacket and tie or equivalent attire

3) Dress Code: Semi-formal

The Manitoba Human Rights Commission recognizes that it does not have the legislative authority to deal with dress codes in their own right; however, the Commission is of the opinion that a dress code which resulted in differential treatment of a group or class of persons with respect to access to a public facility would constitute a contravention of Section 13(1) of *The Code*, and that the public notice of a dress code which indicated that such differential treatment would likely occur would therefore contravene Section 18.

Opinion:

The Commission determined that the three alternative phrases proposed by the Applicant did not convey the message that access to the Casino would be determined on the basis of a discriminatory factor. The Commission noted, however, that the use of "jacket and tie" as an example of suitable attire utilizes a standard applicable only to males, providing no guidance by way of example which would be meaningful to women. Noting that the qualification of "equivalent" dress or attire would bring the phrase into compliance with *The Code*, the Commission nonetheless recommended the more neutral language of number 3.

It was stressed that the opinion issued applies only to the language of the public notice. The application of the dress code on a day to day basis was not examined by the Commission and was not addressed in the advisory opinion.

Legal Proceedings

The following are matters which are currently before a Board of Adjudication or Court. They are included to provide a summary of the most recent developments with respect to cases still pending.

Board of Adjudication: Vogel & North vs. Government of Manitoba

Allegation:

Chris Vogel is an employee of the Government of Manitoba. He is also a male homosexual who has been cohabiting with Richard North in a publicly acknowledged relationship since 1972.

In February of 1988, both Mr. Vogel and Mr. North filed complaints under *The Human Rights Code*. They alleged that the spousal benefits under the employees' dental plan, superannuation plan, and health plan were not available to them because Mr. Vogel's employer, the Government of Manitoba, allowed such spousal benefits only to spouses of the opposite sex. They also alleged that the Government of Manitoba and the Manitoba Government Employees' Association had contravened *The Code* when they negotiated the agreement containing the terms of these Plans. They alleged that the denial of spousal benefits constituted discrimination based on sexual orientation, marital and family status, and sex.

The results of the investigation indicated that there was no dispute with respect to the facts as alleged, but that the respondents' position was that the denial of benefits to homosexual partners did not contravene *The Code*.

The Commission determined that the complaint appeared to be substantiated and, when conciliation attempts were unsuccessful, it requested the Minister to appoint a Board of Adjudication to hear and decide the matter.

Thomas Goodman was appointed to sit as a Board of Adjudication. The hearing was concluded in November of 1990 and the decision of the Adjudicator is expected early in 1991.

Board of Adjudication: Fontaine vs. R. Smith (1960) Ltd.

Allegation:

Mr. Fontaine, who had been earlier diagnosed as having the Human Immunodeficiency Virus (HIV), was a cook by occupation and was hired by R. Smith (1960) Limited to serve as a Cook on a Canadian Pacific Limited railroad crew gang. He assumed his duties at a camp in Broadview, Saskatchewan.

Approximately one month later, Mr. Fontaine found himself involved in a discussion with a member of the road crew gang about HIV and AIDS. In this conversation, Mr. Fontaine disclosed the fact that he had the virus. The next morning, he learned from the roadmaster of the gang that the information was now public knowledge throughout the camp.

Mr. Fontaine was advised by the roadmaster that the men would not eat breakfast as they were afraid of the spread of AIDS. Although Mr. Fontaine provided the name of his doctor and other sources of reassurance that he was not placing anyone at risk by his activities in the workplace, it became apparent to him that his condition was a serious cause of concern for the roadmaster and the other men on the work site. Based on a genuine fear for his personal safety, Mr. Fontaine made arrangements to return to Winnipeg.

In Winnipeg, he was in contact with the personnel manager. He was ultimately provided with a Record of Employment stating he had been dismissed because he had the AIDS virus.

Mr. Fontaine filed a complaint of discrimination alleging that he had been discriminated against with respect to his employment because of a physical disability (HIV). The allegations appeared to be substantiated by the investigation and, as the complaint could not be resolved through voluntary conciliation, the Minister was requested to appoint an adjudicator to hear and decide the matter.

Adjudicator Thomas A. Goodman was appointed and, in May 1990, he convened a hearing to deal specifically with preliminary objections with respect to jurisdiction. In June he released his decision. Adjudicator Goodman found that, on the facts, R. Smith (1960) Limited was an integral part of a federal undertaking, namely Canadian Pacific Railway, and therefore fell within the exclusive jurisdiction of the federal government.

The Manitoba Human Rights Commission sought judicial review of the ruling before the Court of Queen's Bench but, before the matter could be heard, the parties agreed to settle the complaint without admission of liability. By the end of the year, final details were being worked out for a settlement which would include, among other things, the development of an HIV/AIDS policy for the respondent's workplace and training of appropriate personnel with respect to HIV/AIDS in the workplace. Commission services are to be made available with respect to both initiatives.

The following are summaries of the final decisions of the Board of Adjudication or the court where the proceedings were concluded during the previous year.

Supreme Court: Brooks, Allen and Dixon vs. Canada Safeway Ltd.

(Previously reported in 1984, 1985, 1986, 1987, 1988 and 1989 Annual Reports)

Background:

In 1983, Susan Brooks, Patricia Allen and Patricia Dixon filed complaints alleging that the employee disability benefit plan provided by the company discriminated on the basis of sex and family status by disqualifying pregnant women from receiving benefits. They alleged that under the terms of the plan, no benefits are payable during a seventeen week period commencing ten weeks prior to the expected week of confinement and ending six weeks after the week of confinement. Ms Brooks experienced pregnancy-related disabilities and initially received benefits. However, she alleged that ten weeks before the expected confinement, her disability benefits ceased. Ms Allen and Ms Dixon experienced pregnancy-related disabilities which commenced within ten weeks prior to their expected weeks of confinement and Ms Allen continued to experience pregnancy-related disabilities following the birth of her child. All three were denied eligibility for benefits. In contrast, employees who experienced other forms of disability continued to be eligible for benefits under the plan throughout the period of their disability.

Since the investigation revealed an apparent contravention, conciliation was pursued but was unsuccessful in resolving the dispute. The Commission requested the Attorney-General to appoint a Board of Adjudication to hear and decide the complaints, and Mr. J.F. Reeh Taylor, Q.C. was appointed as Adjudicator. The Adjudication was heard in 1984 and separate decisions were rendered for Brooks in October, 1984 and for Allen and Dixon in 1985. Mr. Taylor ruled that, while the evidence clearly established there was indeed discrimination against the complainants under the terms of the disability benefit plan, the discrimination was by reason of pregnancy and not by reason of sex and family status. He noted that pregnancy was not explicitly in the former *Human Rights Act* as a prohibited ground of discrimination and therefore dismissed the complaint.

The Commission filed an Appeal on all three cases which was heard by Mr. Justice Vern Simonsen of the Court of Queen's Bench. In his 1985 decision, he dismissed the Appeal, agreeing with the Adjudicator that there was discrimination against the complainants by reason of their pregnancy, but not by reason of their sex or family status.

The Commission further appealed to the Court of Appeal where again the Appeal was dismissed in May, 1986. The Commission then sought and was granted Leave to Appeal to the Supreme Court. The Women's Legal Education and Action Fund (LEAF), a national organization dedicated to pursuing women's equality issues in the Courts, requested and was granted intervenor status in the cases. Arguments were heard by the Supreme Court in June 1988.

The Supreme Court rendered its decision May 4, 1989 ruling that the complete disentitlement of pregnant women during a 17 week period from receiving accident or sickness benefits under the respondent's plan constituted discrimination by reason of pregnancy. Overruling its earlier decision in the famous *Bliss* case in 1979, the Court unanimously concluded that pregnancy discrimination is a form of sex discrimination because of the basic biological fact that only women have the capacity to become pregnant.

The Court rejected Safeway's argument that excluding pregnancy from the scope of its plan was not a question of discrimination, but a question of deciding to compensate some risks and to exclude others. In so doing, they ruled that under-inclusion may be simply a backhanded way of permitting discrimination. Once an employer decides to provide an employee benefit package, exclusion from such schemes may not be made in a discriminatory fashion.

The Supreme Court therefore allowed the Appeals and remitted the complaints back to the Adjudicator for a determination of the appropriate remedies.

1990 Update:

In accordance with the instructions of the Court, steps were initiated to resolve the issue of remedies. At year end, the Commission was hopeful that the matter would be resolved without the necessity of reconvening the Board of Adjudication.

Note: Complaints were also filed against Dominion Life Assurance Company, the underwriters of the benefit plans. It was agreed at Adjudication that these complaints would be adjourned pending a final determination of the issues in the Canada Safeway complaints.

Queen's Bench: Wadhawan vs. McDonald Supply Limited, McDonald Supply Appliances Limited and Ron Borowski

(Previously reported in the 1986, 1987, 1988 and 1989 Annual Reports)

Background:

Jagdish Wadhawan who is of East Indian descent, filed a complaint alleging that during his employment as a service manager, he was subjected to discriminatory terms and conditions of employment in the form of racial harassment by his supervisor, Ron Borowski, and that he was subsequently terminated from his job. He alleged that he was discriminated against because of his race, colour, nationality and ethnic or national origin.

The investigation results appeared to support the complaint. However, since a voluntary settlement could not be resolved, the Attorney-General was

requested to appoint a Board of Adjudication to hear and decide the matter.

Mr. Vic Savino was appointed Adjudicator and hearings were held in 1986. A decision was rendered November 19, 1986. Mr. Savino found Jagdish Wadhawan was subjected to derogatory remarks and insulting language about his East Indian background to the point that it "poisoned his workplace environment". He found that the supervisor, Ron Borowski, was primarily responsible for such remarks, but noted that junior employees also seemed to follow the lead of the senior person in the use of derogatory racial remarks. Mr. Savino also found that Ron Borowski threatened to dismiss Wadhawan and acted on his racially motivated taunt at his first opportunity following a company reorganization when he was given authority to dismiss employees. The Adjudicator found no evidence to substantiate alternate causes for dismissal alleged by the respondent.

In apportioning liability between Borowski, McDonald Supply Limited (MSL) and McDonald Supply Appliances Limited (MSA), Mr. Savino noted that MSL did take some reasonable action to mitigate the problems in the workplace, as they had attempted to deal with the problem through several meetings and had reversed a previous attempt by Borowski to fire Wadhawan. On the other hand, MSA, the successor company who acquired the assets of MSL, knew about the racial harassment and permitted the dismissal, knowing Borowski's racially motivated attitude. The Adjudicator ordered that Borowski and MSA were jointly and severally liable to pay Wadhawan $15,000 in lost wages. For damages to feelings and self-respect, Mr. Savino ordered $2,000 payable by Borowski, $500 payable by MSL and $5,000 payable by MSA.

In 1987, the Respondents filed an appeal to Mr. Savino's decision in the Court of Queen's Bench.

1990 Update:

In April of 1990, the Court of Queen's Bench dismissed the appeal as the respondent had taken no action to pursue the matter. Pursuant to the provisions of Section 48 of *The Human Rights Code*, the order of the Adjudicator has been filed with the Court and is enforceable as a judgement of the Court.

Supreme Court: Taylor and Western Guard vs. Canadian Human Rights Commission

(Previously reported in the 1989 Annual Report)

Background:

The Commission, through the Minister of Justice of Manitoba, has intervened in this case before the Supreme Court of Canada.

Taylor is the subject of Contempt of Court proceedings for his refusal to abide by a cease and desist order issued by a Federal Human Rights Tribunal against broadcasting hate messages of racism and white supremacy by the telephone in violation of Section 13(1) of *The Federal Human Rights Act* which prohibits the use of telecommunications devices for the spreading of hate messages. Taylor has challenged the contempt proceedings by arguing that the human rights prohibitions violate the freedom of thought and expression guaranteed by Section 2(b) of *The Charter of Rights and Freedoms.* Previous appeals by Taylor at the Trial and Federal Court of Appeal levels have been unsuccessful. The Supreme Court has granted Leave to Appeal on a number of constitutional questions for a determination. Such questions include two on which the Manitoba Government and the Manitoba Human Rights Commission have intervened, specifically:

1. Is Section 13(1) of *The Federal Human Rights Act* consistent with the freedom of thought and expression guaranteed by Section 2(b) of *The Charter;*
2. If it is inconsistent, is it a reasonable limit within Section 1 of *The Charter?*

The Commission has intervened in these proceedings because of concern as to how broadly the Court might construe the concept of "freedom of expression" as a defence. A broad endorsement of the defence, for instance, could affect the nature and extent of current prohibitions with respect to racial, sexual and other forms of harassment, as well as prohibitions against discriminatory signs and notices covered by *The Manitoba Human Rights Code.*

Arguments were heard by the Supreme Court of Canada on December 4 and 5, 1989.

1990 Update:

On December 13, 1990, the Supreme Court handed down its long-awaited decision on this and two other related cases involving hate propaganda laws.

The Court found that even comment as odious as hate propaganda was protected expression under Section 2(b) of *The Canadian Charter of Rights and Freedoms,* except to the extent that certain types of regulation may be permissable as a reasonable limit under Section 1. In determining what might constitute a reasonable limit, the Court placed considerable emphasis on principles set out in such international instruments as the *International Covenant on Civil and Political Rights*, as well as the inter-relationship between the freedom in question (in this case, expression) and other possibly conflicting rights set out in *The Charter* (such as the equality rights in Section 15 and the recognition of multiculturalism in Section 27).

For a legal limit to be valid under Section 1, the 'objective' of the legislation must be sufficiently important to warrant a limiting of *The Charter* freedom. The legislation must also meet a 'proportionality' test in that it must be "well-suited to carry out the objective" and its impact upon an entrenched freedom must not be inappropriately severe.

The majority found that the objective of Section 13(1) of *The Canadian Human Rights Act* – promotion of equal opportunity unhindered by racial or religious discrimination spread through hate propaganda – met the first test. It also found that the provisions of *The Canadian Human Rights Act* met the 'proportionality' test. The Court remarked upon the "conciliatory nature of the human rights procedure" which made it "especially well-suited to encourage reform of the communicator hate propaganda".

It appears that two important and related points emerge from this decision. The first is that, for the Court to consider a form of expression to be a "hate message", it must be extreme. Secondly, it must be objectively so and not merely subjectively offensive. In this and the related decisions, the Court has clearly placed a very high premium on freedom of expression and has made it clear that any attempts to limit freedom of expression will come under very strict scrutiny.

In Taylor, the Supreme Court has also made it clear that it holds human rights legislation in high esteem. Although the Judges indicated that an apparent *Charter* limitation cannot be justified simply by placing it in a human rights statute, they have also indicated that carefully and reasonably drafted human rights protections will receive a sympathetic ear, even where they may on the surface appear to conflict with *Charter* rights and freedoms.

Sample Complaints

The following are provided as some examples of: types of issues that can be the subject of complaints, the range of dispositions, the types of voluntary settlements that can be achieved and some reasons for dismissal or alternative dispositions.

These examples are no way indicative of the current caseload or the relative numbers of settled and dismissed cases. Statistical information regarding the Compliance Program can be found on page 32.

Each complaint is assessed on its own merits and settlements outlined in the following pages should not be considered as representing a particular trend or current norm.

Services/Disability

Allegation:

The complainant, an organization representing persons with disabilities, filed a complaint on behalf of its members who use respirators, regarding a policy of a transportation carrier for such persons. Under this policy, passengers who use respirators were required to be accompanied by an attendant or to provide a medical certificate from their physician, indicating a specified period of time during which they would be safe in the event of a failure of their respiratory equipment. The complainant organization alleged that its members who were affected by this policy, were subjected to unreasonable differential treatment on the basis of disability.

Investigation:

The investigation revealed that the policy was based on a concern for the respondent's potential liability in the event that persons using respirators suffered injury while travelling on its vehicles. The complainant objected to the respondent's requirements of attendants or medical certificates as preconditions to travelling and maintained that the individual should determine for themselves whether it is safe for them to travel alone.

Disposition:

Conciliation was initiated. The parties agreed to a change in policy whereby the respondent no longer requires a doctor's certificate before allowing a respirator user to travel alone. Instead the respondent agreed to circulate a letter to the affected passengers which will warn of the dangers that might arise should there be a respirator malfunction for any reason while the passenger is travelling, urge such passengers to check with their own doctor to determine how safe they will be in the event of such a situation and require a signed acknowledgement of this advice from the passenger. Under the revised policy, it is up to the passenger to take reasonable steps to safeguard his or her own safety, but the passenger will be making that determination on his or her own, rather than depending on a physician to speak for him or her. Since both parties were satisfied with this resolution, the case was closed as settled.

Services (Denial)/Source of Income

Allegation:

Two complainants were in receipt of student aid and a third was in receipt of social assistance. They were each refused on different occasions a customer service card which affords the holder cheque cashing privileges by the respondent, a supermarket chain. The complainants alleged they were denied the opportunity to be considered for a customer service card because of their source of income.

Investigation:

The investigation of the earliest of these complaints revealed that no attempt was made by the respondent supermarket to solicit or obtain any information from an applicant for a customer service card as to source of income other than employment. Although there was evidence the respondent granted customer service cards to a number of students, there was no indication any of these students were on social assistance at the time they were granted cards. The respondent provided no examples of cards granted to persons (students or otherwise) on social assistance. The respondent's practice appeared to have an adverse and disproportionate effect on persons whose source of income was other than employment, including the complainant. The investigation further revealed that persons who are employed are provided immediate cheque cashing privileges of up to a certain maximum amount on verification of employment prior to a full credit assessment whereas anyone who was not employed was denied this privilege. It appeared that the complainant was denied immediate cheque cashing privileges solely because her source of income was other than employment.

Disposition:

Upon receipt of the two subsequent complaints, the respondent offered to settle all three voluntarily. The respondent agreed to ask those customers whose source of income is other than employment to provide confirmation regarding income or a letter of reference from a banking institution. The respondent further agreed that such sources of income will be verified by those employees responsible for this function, who have been advised of this policy by the respondent and have been trained to solicit and obtain information from applicants about alternative sources of income. In instances where a customer's bank confirms that she/he is an account holder and there are sufficient funds in his/her account at the time to cover the amount of the cheque, the respondent agreed to grant immediate cheque cashing privileges. These privileges would be subject to the maximum amount in the absence of verification of the customer's income level. The respondent advised the complainants of the revised policies regarding cheque cashing cards and immediate cheque cashing privileges and provided them application forms to be completed and returned for verification. Since all parties were satisfied with this resolution, the complaints were closed as settled.

Employment (Hiring)/Physical Handicap

Allegation:

The complainant, a Northern resident, alleged that an employer refused to consider his application for employment because he had a vision problem involving depth perception.

Investigation:

The respondent confirmed that the complainant's application for employment had been denied because of his disability. The respondent argued that because of the nature of the complainant's disability, however, the disability itself was a bona fide occupational disqualification given the nature of the job duties involved.

The complainant was referred to an eye specialist who was informed of the job duties involved in the position for which he applied. In discussion degrees of risk and possible consequences, the specialist concurred with the respondent's assessment that the complainant would have difficulty in carrying out one of the essential functions of the position and that the consequence of an error could be very serious and even fatal. The investigation revealed that it was not feasible for the respondent to accommodate the complainant's condition by assigning another employee to carry out this particular duty because the nature of the job involved being on call at all hours.

Despite the fact that the complainant was unsuccessful in his bid for this position, the respondent agreed to consider the complainant's application for other jobs which would not pose the same safety risks as the one for which he had originally applied.

Disposition:

It appeared from the investigation that the complainant's condition would reasonably preclude him from carrying out the duties of the position he had applied for in a safe and efficient manner. In this circumstance, the respondent's denial of employment based on the complainant's disability was regarded by the Commission as bona fide and reasonable. In addition, reasonable accommodation of the complainant's disability did not appear to be possible without undue hardship on the employer. The complaint was therefore dismissed.

Employment (Termination)/Religion

Allegation:

The complainant, a Northern resident, alleged that his employment was terminated on the basis of his religious belief or association in that the foreman told him that the Church where the Company was doing renovation work wanted its members to receive preference in hiring over other persons.

Investigation:

The investigation revealed that the complainant, along with another individual were hired as construction labourers by the respondent. After working for two days, the foreman approached the complainant and the other individual to advise them that they did not have to bother coming back. The foreman advised the complainant that the Church where the work was being done wanted the respondent to give preference for jobs to Church members. The respondent Company denied the allegation and stated that the complainant's termination had been the result of poor work performance. However, there was no evidence obtained during the investigation which supported this. The investigation did confirm that the foreman had received a list from the Church of names of individuals who were members and who may come seeking employment. It appeared the foreman had interpreted this to mean that preference in hiring was to be given to Church members. However, the respondent Company advised that even when such a list is presented, they are under no obligation to give these individuals preference in hiring. After the complainant's employment had been terminated, there were others who were subsequently hired by the respondent Company who did not belong to the Church.

There did not appear to be any evidence to indicate that Church members had indeed been given preference for positions by the respondent. However, there was evidence to suggest that the complainant's employment had been terminated because the foreman believed that the list given to him meant that the Church wanted preference in hiring to be given to its own members. As a result, the complainant and the other individual who had been hired at the same time as the complainant had their employment terminated.

Disposition:

Since the evidence appeared to support the complainant's allegation, the matter proceeded into conciliation. The respondent offered the complainant a letter of apology and lost wages in the amount of $703. Since both parties were satisfied with this resolution, the Commission closed the file as settled.

Employment (Denial)/Perceived Physical Disability

Allegation:

The complainant alleged that she had been unreasonably denied an opportunity for employment with a police department in Manitoba because she was missing a thumb and index finger on her non-dominant, left hand.

Investigation:

The investigation confirmed that the complainant was not considered for employment as a police constable because of her hand impairment. The police department said the refusal was bona fide, and was

based on reasonable occupational requirements that the complainant could not meet.

The investigation showed that during the screening process for constable, a respondent employee stopped the complainant's eye vision test when she noticed the complainant's hand impairment. The complainant was asked to wait to speak to another respondent employee. This employee arrived and proceeded to speak to the complainant within hearing of other applicants and personnel. He told her that she had indicated on her application form that she had no handicaps, but that she did. When the complainant advised him that she had been missing the fingers for twenty years and had never yet been unable to do anything as a result, he asked her to pick up a penny and she did so without difficulty. After some further discussion, he handed her back her application documents, which she refused.

After reviewing the reasonability of the respondent's recruitment selection criteria related to hand function, the Commission obtained an expert's opinion as to the complainant's ability to meet these physical requirements. Following a thorough functional assessment and evaluation of the complainant's grip strength and grasp and pinch function in her injured hand, the expert concluded that she met these requirements.

An evaluation of this and other evidence led to a conclusion that the police department had not satisfied its onus of proof that its refusal to consider the complainant for police constable was based on her failure to meet a bona fide occupational qualification.

Disposition:

Conciliation discussions resulted in the parties reaching a settlement of this complaint. The police department agreed to pay $1500.00 in damages to the complainant for injury to dignity, feelings and self respect, and/or the loss of opportunity. A written apology was extended to the complainant together with assurances that the respondent would not deny any future benefit or opportunity or cause any future detriment to her as a result of her filing the complaint. The police department also confirmed that all future applicants for police constable who had visible impairments of concern with respect to job-related requirements would have their functional ability tested prior to the department rendering any decision, and that this testing would be done in a respectful and objective manner.

As both parties were satisfied with this resolution, the complaint was closed as settled.

Services/Disability (Hearing Impaired)

Allegation:

The complainant, who is deaf, alleged that a Police Officer in Manitoba treated him differently than a hearing person. When the Police Officer stopped the complainant regarding an alleged speeding offence, he questioned the complainant by asking him to reply in writing, and the complainant complied. The Police Officer refused however to destroy the complainant's written responses when the questioning was over or to give them back to the complainant. The complainant maintained that in effect he was providing the Police Officer with a written statement whereas a hearing person in the same situation would not be required to do so.

Investigation:

The investigation confirmed that the officer had retained the complainant's written material. It revealed that it was a judgement call on the part of the officer in that there was no departmental policy or guideline to follow pertaining to this type of situation.

Disposition:

The respondent immediately instituted a policy and set out guidelines to be followed by its members in communicating with persons who are deaf.

The policy directed that apart from criminal code offences, all statements, written responses, or notes made by persons who are deaf in the course of discussion with a Police Officer will be retained by the citizen. In the case of a criminal investigation, the person will be assured their full legal rights with regards to any written statements obtained by the Police Department. As the settlement was satisfactory to both parties the Commission closed the file as settled.

Employment (Termination)/Disability

Allegation:

The complainant alleged that she had been discriminated against because of a perceived physical disability in that her employment was unreasonably terminated because she did not have a tone or pitch of voice acceptable to the employer.

Investigation:

The investigation revealed the complainant is a person with a high-pitched voice. The complainant applied for a position with the respondent as a file clerk. The complainant was interviewed by the Office Manager and they discussed the position requirements including some switchboard relief work. Subsequent to a personal interview with the Office Manager, the complainant was offered the position. For the first three days of her employment, she received an orientation and training for the job with the exception of switchboard relief duties. A few days later, she was called aside by the Office Manager who advised her that her employment was being terminated. When she asked why, the Office Manager told her because "part of your job is the switchboard." She inquired if it was because they thought she could not do the job and the Office Manager replied no. The complainant then asked if it was her voice to which the Office Manager replied yes.

The respondent's Vice-President stated that the complainant had been hired by the Office Manager in his absence and upon his return to work, he heard the complainant on the telephone and concluded immediately that she was unsuitable for switchboard duties. He indicated that the complainant's voice was high-pitched and was very uncomfortable for a person to listen to and that their concern was the image and impression created by the person answering the phone. The Vice-President confirmed that he had not received any complaints from suppliers or customers however about the complainant and that her clarity and choice of words and her telephone manner were satisfactory.

Disposition:

Since the evidence appeared to support the complainant's allegation, conciliation attempts were made by the Commission staff. The complainant accepted an offer by the respondent of $1527.50 as a monetary settlement. Since both parties considered the settlement satisfactory, the Commission closed the file as settled.

Employment (Denial)/Age

Allegation:

The complainant was 43 years old and recently completed training at a community college which qualified him for employment as an apprentice in telecommunications. He graduated in the top 20% of his class. He applied for employment but received no response. Six of his classmates who were in their twenties however were offered employment at the company. The complainant alleged the company denied him employment on the basis of his age.

Investigation:

The company indicted that it hired a full complement of apprentices prior to the complainant's applying. The investigation revealed that the classmates whom the company did hire started applying prior to graduation and kept in bi-weekly contact with the company regarding employment opportunities while the complainant had not. The investigation further revealed that in the past several years the company had hired individuals of a similar age to the complainant.

Disposition:

On a balance of probability, there was insufficient evidence to substantiate that the complainant was denied employment on the basis of his age and the complaint was dismissed by the Commission.

Contracts (Denial)/Disability

Allegation:

The complainant has multiple sclerosis. She applied for a private life insurance policy from a large insurance company which refused to accept her application based on a medical report. The complainant alleged the company denied her and other persons with multiple sclerosis life insurance on the basis of physical disability.

Investigation:

The investigation revealed that based on the information about her condition which the complainant herself provided in her application, the respondent's Underwriting Department determined that it was necessary to obtain additional medical information from the complainant's doctor before making a decision on her application. Upon receipt of the medical report the company declined her application for a policy.

The respondent indicated that prevailing medical opinion is that the average survival period of a person diagnosed with multiple sclerosis under the age of 40 is 25 to 30 years from the onset of the disease. The complainant was 25 at the onset of multiple sclerosis and she had a number of characteristics which indicate poor prognosis. The respondent determined that, for life insurance purposes, the complainant's life expectancy at onset of the disease was at best 25 to 30 years. However, in the insured population, the life expectancy of a person age 25 is 54.84 years. The respondent further indicated although the complainant was 28 at the time of application, there was no basis to believe that her mortality rate would improve as the medical literature does not indicate there is any improvement in the mortality rate in relation to the number of years of survival since diagnosis. In the complainant's case, the multiple sclerosis was in a progressive phase. An independent expert opinion was obtained and based on medical data provided to the expert, the expert concluded that the complainant's expected mortality rate would be five times greater than that of the insured population. The investigation revealed the respondent had issued policies to nine individuals diagnosed with multiple sclerosis and in three of the cases the expected mortality rate was four times the standard rate of the insured population.

Disposition:

The investigation appeared to substantiate that the respondent's denial of life insurance to the complainant was based on an individual assessment of risk which was bona fide and reasonable. Accordingly, the Commission dismissed the complaint.

Services/Marital Status

Allegation:

The complainant was a member of a singles club. He alleged that the Club's bylaws unreasonably discriminated against individuals on the basis of their marital status by refusing membership to individuals whose ex-spouses were already members of the club. He believed that if both ex-spouses wished to join the club, it was discriminatory to allow one to join and to refuse to permit the other ex-spouse to join.

Investigation:

The investigation revealed that the complainant was not personally affected by the bylaw in question nor did he know of any individual who had been.

The respondent argued that the membership restriction was bona fide and reasonable and that the purpose of a singles club would be defeated if they were required to change their bylaw and allow both ex-spouses to be members. The respondent stated that the club was designed to all individuals to socialize in a comfortable environment and that this environment would be compromised if ex-spouses were members. As there were approximately seven other singles clubs, the respondent argued that refusing membership to an ex-spouse of a paid up member, did not create a hardship for the other ex-spouse who could join another singles club.

Disposition:

The Commission determined that the respondent's policy of refusing membership to the ex-spouse of an existing member is bona fide and reasonable given the fact that potential for conflict between ex-spouses is real and similar services were available at other clubs. The complaint was dismissed.

Service (Denial)/Disability

Allegation:

The complainant who is blind and relies on a dog guide, was accompanied to a taxi stand by a friend who is sighted. They approached the first taxicab in line and the driver told her that her dog was not permitted in the cab but provided no reason as to why. Another taxicab arrived and when the complainant attempted to enter this taxicab the driver asked her to take the first taxi. She explained that the first driver refused to take her. The other driver went over and spoke to the first driver. When he returned, he told the complainant he would take her to her destination. On the way he mentioned that the other cab driver told him that he had a bad experience with a dog. The complainant alleged that she was denied taxicab service because of physical disability and reliance on a dog guide.

Investigation:

The investigation revealed that prior to denying the complainant taxicab service, the respondent's doctor diagnosed him as allergic to dog's dandruff/fleece. His doctor had advised him to avoid contact with dogs. In the course of the investigation, the respondent was examined by an immunologist who confirmed the diagnosis made by his family doctor and provided the same medical advice to the respondent to avoid contact with dogs. The complainant's friend confirmed that the respondent did not explain to the complainant at the time he denied her service however that his refusal was due to medical reasons.

Disposition:

Since the respondent was following medical advice to avoid contact with dogs, the Commission dismissed the complaint. However, the respondent was advised that in future he should offer to assist the blind person in obtaining service by immediately advising the dispatcher of the situation in order that another cab may be dispatched as outlined in Guidelines for Taxicab Owner/Operators and Disabled Passengers issued by the Commission.

Services/Disability

Allegation:

The complainant, who is blind and is reliant on a dog guide was initially denied entry into a restaurant by a Manager when she was accompanied by her dog guide. The Manager told her that the dog would offend other customers. When the complainant advised him that the law required that her dog guide be permitted on the restaurant premises and was about to show the Manager documentation to this effect, he finally allowed her dog guide into the restaurant. She and her party were then seated however at a table in the back of the restaurant near the kitchen despite there being empty tables which were more desirable. The complainant alleged she was subjected to differential treatment with respect to a service because of her physical disability and reliance on a dog guide.

Investigation:

The investigation confirmed that the Manager initially refused to permit the complainant's dog guide into the restaurant and gave as a reason that the dog's presence would offend other customers. The Manager claimed that at the time he thought that the dog was a "wild" dog which had walked in off the street with the complainant. The investigation also confirmed that the restaurant was not busy at the time and that when the complainant and her party were seated, it was near the kitchen in an area where the decor was plainer than in other areas of the restaurant and where they were segregated from other customers.

Disposition:

Since the evidence appeared to support the complainant's allegation, conciliation was pursued. The respondent compensated the complainant in the amount of $300 in respect of her dignity, feelings and self respect, provided her with a written apology and a certificate for free dinners for herself and the other persons in her party at the time of the incident. The respondent also provided written assurance that in future, it will not deny service to persons who are blind and accompanied by dog guides. The parties were both satisfied with this resolution of the matter and the Commission closed the file as settled.

Contracts (Denial)/Sex (Pregnancy)

Allegation:

The complainant, who was pregnant at the time of purchasing a trip cancellation policy, was advised subsequently by her physician not to fly due to unforeseen medical reasons. She submitted a claim under the cancellation policy but was advised by the Insurer that her claim would not be processed because the policy excluded loss caused or contributed to by her pregnancy which existed at the time of her applying for the policy.

Investigation:

The investigation confirmed that the respondent refused to honour the trip cancellation policy as they regarded the reason for her cancellation to be related to a medical problem caused by her pregnancy and since she was pregnant at the time of purchasing the policy. There was medical evidence however that this medical condition was unrelated to the complainant's pregnancy.

Disposition:

Since the evidence appeared to substantiate that the complainant was disentitled to trip cancellation on the basis of pregnancy, conciliation was initiated. The respondent agreed to process her claim and to reimburse her for the air fare. The respondent also provided written assurance that in future it will not deny trip cancellation insurance to a woman solely because she is pregnant and it will not use pregnancy or a disability related to pregnancy to deny a claim if the disability was non-existent at the time of application. Since both parties expressed satisfaction with the settlement, the Commission closed the file as settled.

Employment (Recall)/Sex

Allegation:

The complainant was one of a few women employed in a meat packing plant where predominantly men were employed. She had considerable seniority and was laid off with the understanding that she would be recalled when the plant became busy again. She contacted company officials to express her interest in returning to work when she learned that the company was recalling male employees with less seniority back to work, as well as hiring males as new employees. The complainant alleged the company did not recall her to work on the basis of sex.

Investigation:

The respondent indicated that recall was based on seniority, position availability, and skill requirements, and maintained that the complainant was not recalled because of poor work performance and limited skills. Although there was some evidence of concerns about the complainant's performance, it was not specific in relation to job performance standards and there was no documentation or witnesses to corroborate the foreman's contention that the complainant was warned regarding her performance. There was evidence, however, that the foreman, who was responsible for advising management of staffing needs in his department, was biased against women in that he had advised that he was not recommending the recalling of workers until the female employees' recall rights under the collective agreement expired. The investigation revealed that male employees junior to the complainant were recalled within a few days of the expiring of her right of recall.

Disposition:

Since the evidence appeared to substantiate the complainant's allegation, conciliation was attempted. The respondent provided the complainant the sum of $1500 as a monetary settlement. Since both parties considered the settlement satisfactory, the Commission closed the file as settled.

Services (Terms and Conditions)/Age

Allegation:

The complainant, who is an adult, as was her friend who accompanied her, was a customer in a fast food restaurant. It was located near a high school where she was a member of the teaching staff. The restaurant owner told the complainant that he would take her food order ahead of the orders of two youths who were ahead of them in line for counter service. She maintained that the owner also had a policy of applying a minimum charge only to students. The complainant alleged that the restaurant owner treats students differently with respect to terms and conditions of service on the basis of age.

Investigation:

The respondent denied the allegation. Another witness, however, corroborated that on another occasion when she was in the restaurant, the respondents asked her for her food order ahead of youths who were before her in the line for counter service. This witness maintained that she observed another adult male customer who entered the restaurant was immediately asked for his order by the respondent, despite there being several students waiting in line ahead of him for service. In the course of the investigation, the respondent himself made negative generalizations about students as customers.

Disposition:

Although the evidence appeared to substantiate the complaint, the victims of the discrimination were unidentified and so it was impossible to pursue a remedy for them. The Commission closed the file, but cautioned the respondent that conduct such as that described in the complaint appeared to constitute age discrimination and that further substantiated complaints may result in more significant consequences.

Housing (Denial)/Family Status

Allegation:

The complainant, a single parent, wanted to move into the same building where her mother resided so that her mother could assist the complainant with child care while the complainant looked for work. The Agency's property manager stated that she could not consider her request however because her mother was a current tenant in that building and the policy was members of the same family would not be permitted to reside in the same building. The complainant alleged the agency denied her housing accommodations on the basis of family status.

Investigation:

The investigation revealed that the respondent had a practice which had evolved from past experience of not placing families in the same building although there was no formal policy in this regard.

Disposition:

Since the evidence appeared to substantiate the complainant's allegation, conciliation was initiated. The respondent permitted the complainant to rent an apartment in the same building as her mother. In light of this resolution, the complaint was closed as settled.

Housing (Denial)/Ancestry

Allegation:

The complainant, who is of Oriental descent, was helping a friend who was also of Oriental descent, find an apartment. When he saw a vacancy sign in one building, he met with the caretaker. He believed the caretaker acted suspiciously, hesitating when answering his question, and finally denying there was a vacancy. The complainant alleged the caretaker denied him the opportunity to view a suite because of his ancestry.

Investigation:

The respondent replied to the complaint by explaining that there had been a communications failure and apologized to the complainant. The respondent owned more than one apartment building in the immediate area. Renovations were going on at one of the other buildings and as vacant apartments were renovated they were advertised as available for rent. However, the sign directed prospective tenants to a building which had no vacancies. The caretaker of that building was new and did not understand the arrangement, and that is why he told the complainant there was no vacancy.

Investigation further revealed that several people of Oriental descent were already tenants in that building.

Disposition:

Upon receiving the respondent's explanation and an apology, the complainant stated he now understood the situation and the complaint was dismissed.

Employment (Harassment, Terms and Conditions, Termination)/Ancestry, Ethnic Background or Origin

Allegation:

The complainant, a Metis woman, worked as a part-time nurse's aide in a nursing home. She alleged she was subjected to racial harassment in that the Director of Nursing frequently phoned her at home when drunk, and made derogatory remarks about native people. She said she also had difficulty with the Director, the Head Nurse and the Administrator when she took sick leave whereas co-workers who are white did not experience such difficulties. The Director of Nursing ultimately terminated the complainant's employment. The complainant further alleged that this decision was made on the basis of her ancestry and ethnic background or origin.

Investigation:

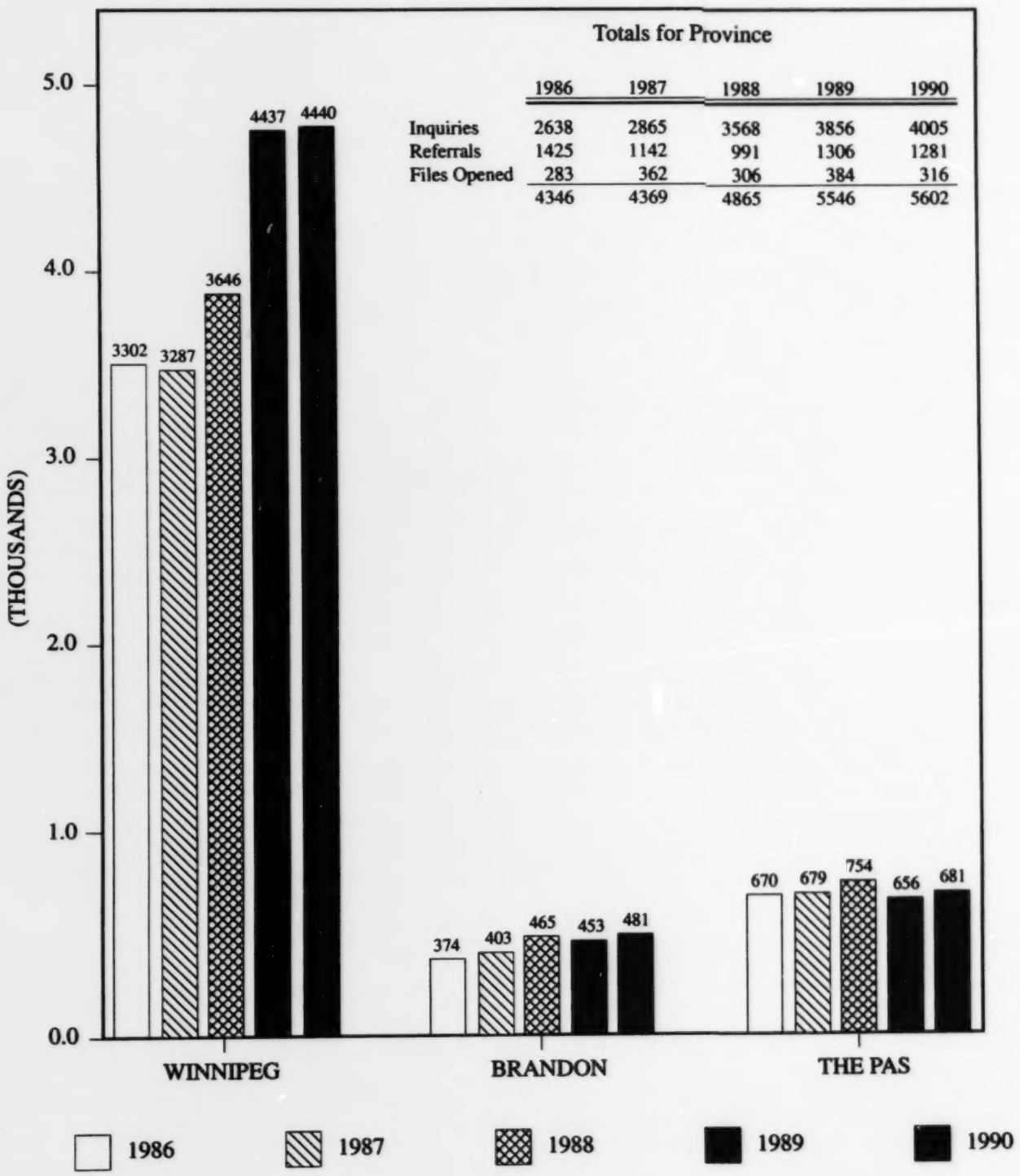
The investigation revealed that the respondent had a sick leave policy. Under the policy, medical certificates may be required by the respondent for absences from work due to illness. The investigation further revealed that the Director of Nursing warned the complainant verbally about abuse of sick leave and advised her that she would be required to provide medical certificates for further absences from work due to sickness. The respondent's concerns over the extent of the complainant's sick leave, absenteeism, late arrivals at work, and personal hygiene had been documented in performance evaluations done during the year leading up to her dismissal. The investigation revealed that the respondent issued two written warnings to the complainant regarding these concerns and that the second warning indicated that termination of employment would follow if her conduct did not change.

The investigation appeared to substantiate however, that the complainant received the racially harassing phone calls from the Director of Nursing and that although she had expressed concern about this harassment to the Administrator, such phone calls from the Director of Nursing continued.

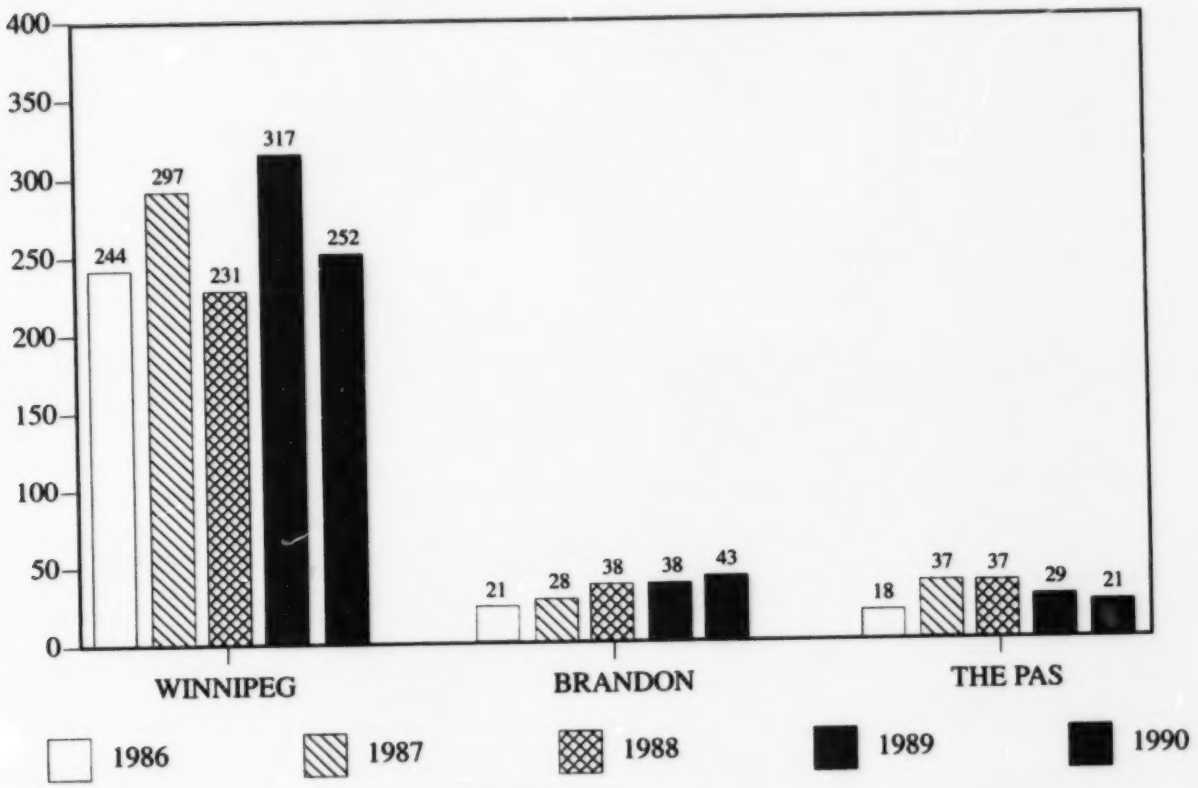
Disposition:

As the evidence appeared to substantiate the allegation of racial harassment conciliation was initiated. Negotiations led to an agreement between the two parties which involved a $1000 payment for general damages to the complainant for injury to dignity, feelings or self respect as a result of the racial harassment, a letter of apology, and a written commitment by the respondent to prevent any contravention of *The Code* in future. The Commission then terminated proceedings as the matter had been settled to the satisfaction of both parties.

Total Intake Contacts by Region 1986 — 1990



Files Opened by Region 1986 — 1990

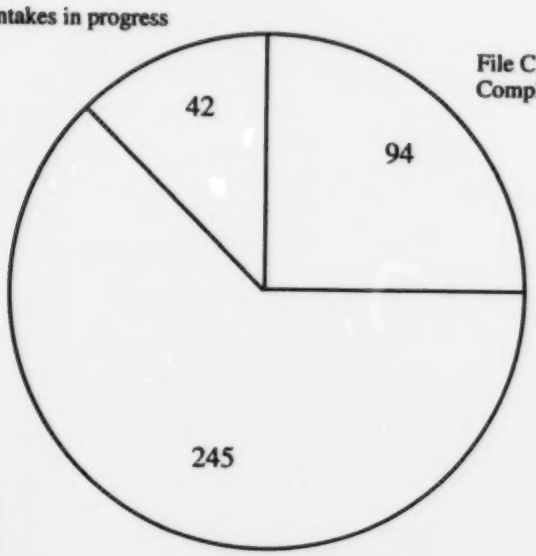


Distribution of Files Opened by Location — 1990

Arborg	1	Portage la Prairie	3
Austin	1	Petersfield	1
Boissevain	2	Pinawa	1
Brandon	32	Pine River	1
Cormorant	1	Riverton	1
Dauphin	4	Russell	1
Gillam	1	South Indian Lake	1
Headingley	4	Selkirk	1
Lac du Bonnet	1	Steinbach	2
Leaf Rapids	1	Swan River	1
Lynn Lake	1	The Pas	5
Minitonas	1	Thompson	8
Moose Lake	1	Wawanesa	1
Morden	1	Winkler	2
Ochre River	1	Winnipeg	233

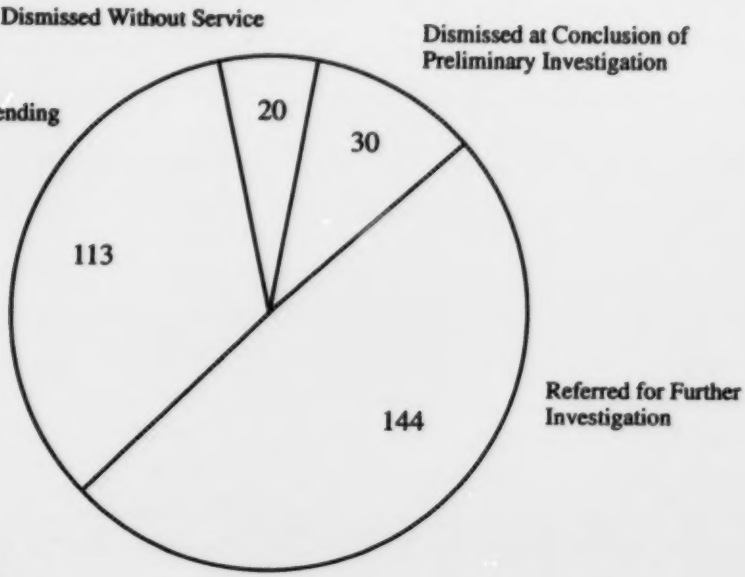
TOTAL 316

Classification of Files



Intakes Brought Forward	65
Opened in 1990	316
Total	381

Preliminary Disposition of Formal Complaints



Formal Complaints Brought Forward	62
Opened in 1990	245
Total	307

Formal Complaints Filed by Grounds and Statutory Category 1990

STATUTORY CATEGORY	TOTAL FILES	Ancestry	National/ Ethnic Origin	Marital/Family Status	Disability	Sex	Age	Religion	Political Belief	Source of Income	Sexual Orientation	Other
Employment	139	19	11	17	33	60	12	4	2	1	2	5
Housing	6	3	0	2	0	1	0	0	0	1	0	0
Services	94	18	3	7	41	11	12	4	0	7	3	3
Other	5	1	1	1	0	1	1	0	0	0	0	0
Reprisals	1	0	0	0	0	0	0	0	0	0	0	0
	245	41	15	27	74	73	25	8	2	9	5	8

Formal Complaints Filed by Grounds 1986 — 1990

GROUNDS	1986		1987		1988		1989		1990	
Ancestry	60	24%	79	26%	49	19%	61	21%	41	17%
National/Ethnic Origin	48	20%	71	24%	18	7%	20	7%	15	6%
Marital/Family Status	35	14%	55	18%	37	14%	43	15%	27	11%
Disability	45	18%	72	24%	57	22%	81	28%	74	30%
Sex	67	27%	60	20%	54	21%	75	26%	73	30%
Age	39	16%	39	13%	34	13%	27	9%	25	10%
Religion	9	4%	4	1%	8	3%	9	3%	8	3%
Political Belief	2	1%	3	1%	7	3%	7	2%	2	1%
Source of Income	17	7%	20	7%	11	4%	11	4%	9	4%
Sexual Orientation	—		—		10	4%	5	2%	5	2%
Other	14	6%	9	3%	24	9%	16	5%	8	3%
Total Complaints Filed (a)	245		302		262		291		245	

Formal Complaints Filed by Statutory Category 1986 — 1990

STATUTORY CATEGORY	1986		1987		1988		1989		1990	
Employment	159	65%	175	58%	158	60%	193	66%	139	57%
Housing	43	18%	45	15%	24	9%	21	7%	6	2%
Services	35	14%	71	23%	69	27%	61	21%	94	38%
Other	8	3%	11	4%	11	4%	6	2%	5	2%
Reprisals	—		—		—		10	4%	1	0%
Total	245	100%	302	100%	262	100%	291	100%	245	100%

Note: (a) Many complaints are based on more than one ground of discrimination. This will affect the totals in some of the above tables.

(b) The Statutory Category "Other" includes contracts and purchase of property.

(c) The Grounds Category "Other" includes group factors not specifically cited in *The Code.*

(d) The figures for 1986 — 1987 in the table "Formal Complaints Filed by Grounds" have been adjusted to reflect the new *Human Rights Code.*

Disposition of Formal Complaints by Statutory Category 1990

STATUTORY CATEGORY	DISMISSED		SETTLED		UNRESOLVED		REFERRED*		OTHER		TOTAL (100%)
	#	%	#	%	#	%	#	%	#	%	
Employment	83	45%	30	16%	4	2%	11	6%	57	31%	185
Housing	5	56%	2	22%	0	0%	1	11%	1	11%	9
Services	41	59%	13	19%	2	3%	0	0%	14	20%	70
Other	3	50%	2	33%	0	0%	1	17%	0	0%	6
Reprisals	6	60%	0	0%	0	0%	0	0%	4	40%	10

* See Definitions

Disposition of Formal Complaints Filed by Grounds 1990

GROUNDS	DISMISSED		SETTLED		UNRESOLVE		REFERRED*		OTHER		TOTAL (100%)
	#	%	#	%	#	%	#	%	#	%	
Ancestry	31	66%	6	13%	3	6%	0	0%	10	20%	50
National/Ethnic Origin	10	67%	3	20%	3	17%	0	0%	2	11%	18
Marital/Family Status	21	54%	8	21%	0	0%	1	3%	9	23%	39
Disability	39	56%	10	14%	1	1%	4	6%	17	24%	71
Sex	21	32%	17	26%	1	1%	5	8%	23	34%	67
Age	17	55%	3	10%	0	0%	0	0%	11	35%	31
Religion	6	43%	1	7%	0	0%	2	14%	5	36%	14
Political Belief	3	75%	0	0%	0	0%	0	0%	1	25%	4
Source of Income	5	42%	4	33%	0	0%	1	8%	2	17%	12
Sexual Orientation	1	25%	2	50%	0	0%	0	0%	1	25%	4
Other	7	50%	3	21%	0	0%	0	0%	4	29%	14

* See Definitions

Disposition of Formal Complaints 1986 — 1990

DISPOSITION	1986		1987		1988		1989		1990	
Dismissed	173	60.1%	119	50.0%	130	52.0%	143	57.2%	138	49.3%
Settled	39	13.5%	39	16.4%	41	16.4%	47	18.8%	47	16.8%
Unresolved	4	1.4%	2	0.8%	3	1.2%	6	2.4%	6	2.1%
Referred*	10	3.5%	13	5.5%	1	0.4%	10	4.0%	13	4.6%
Other	62	21.5%	65	27.3%	75	30.0%	44	17.6%	76	27.1%
Total	288	100.0%	238	100.0%	250	100.0%	250	100.0%	280	100.0%

Definitions

Dismissed:
Where the evidence is insufficient to substantiate the allegation; or there is no contravention of *The Code;* or the complaint is frivolous or vexatious.

Settled:
Where the terms of settlement are satisfactory to both the Complainant and Respondent.

Unresolved:
Where a reasonable settlement offer is made by the Respondent but rejected by the Complainant.

Other:
Includes a complaint that has been withdrawn or abandoned by the Complainant, or terminated for some other reason.

Referred:
Where a complaint is not settled, dismissed or disposed of in any other way indicated above, the Commission may request that the Minister appoint a Board of Adjudication to hear and decide the matter; or recommend that the Minister commence a prosecution.

Advisory Opinions Issued 1988 — 1990

	1988	1989	1990
Opinion Issued:			
Special Program	1	4	3
Bona Fide and Reasonable Requirement	4	0	2
Reasonable Accommodation	0	0	0
Other	0	0	2
No Opinion Issued	2	2	3
Total Files Closed	7	6	10

Note: In some cases more than one basis for the exception was cited. Only one is recorded for statistical purposes. (See Summaries of Advisory Opinions issued, Page 17.)

Year End Status Report for 1990

	FORMAL COMPLAINTS	ADVISORY OPINIONS	TOTAL FILES
Brought forward	419	32	451
Received in 1990	245	10	255
	664	42	706
Files closed	280	10	290
Open files at year end	384	32	416

Year End Status of Open Files:

COMPLAINT FILES:

Preliminary investigation	112
In backlog	70
In investigation	191
In conciliation	11
	384

ADVISORY OPINION FILES:

Inactive	3*
In backlog	0
In progress	24
Pending closure	5
	32

*Pending disposition of complaints relating to the same issue.

Total Speaker Service Activity 1986 — 1990

	1986	1987	1988	1989	1990
Speaking Engagements	89	106	113	108	125
Consultations	5	13	12	13	28
Outreach Contacts	110	100	67	20	9
Information Booths	5	5	2	1	3
Total	209	224	194	142	165

APPENDIX A

The Manitoba Human Rights Commission Publications List

(Publications available in large print, audio-tape or braille on request.)

Sexual Harassment: Does It Affect Your Workplace?/Does It Affect You? (Brochure)*

— Contains information for both employers and employees on what constitutes sexual harassment and what can be done about it.

Guidelines for Taxicab Owner/Operators and Disabled Passengers (Brochure)*

— Sets out the rights and responsibilities of cab drivers serving taxi customers or potential customers with physical disabilities. Also contains tips to drivers for providing effective, quality service to disabled customers.

The Manitoba Human Rights Commission Annual Report

— Contains information on the Commission's structure and function, major activities of the past year, case examples, statistical highlights.

Guidelines: Housing*

— Sets out the housing provisions of *The Manitoba Human Rights Code*. Of interest to tenants, owners, apartment managers and rental agencies.

Guidelines: Pre-Employment Inquiries*

— Outlines the pre-employment provisions of *The Code*. Of interest to employers, personnel departments, employment agencies, and persons seeking employment.

A Guide for Respondents*

— Outlines the complaint process and the rights and responsibilities of employers, property owners, rental agents, business proprietors, etc. under *The Manitoba Human Rights Code*.

Advisory Opinions* (Information Sheet)

— Provides general information on when an Advisory Opinion should be requested and the procedures that are followed.

Human Rights

— A multilingual brochure outlining the basic services of the Commission. (Languages include Portuguese, Polish, Laotian, Spanish, Vietnamese and English.)

Fact Sheets (Bilingual)

— General information on prohibited discrimination under *The Human Rights Code* and specifically discrimination because of pregnancy, disability, reasonable accommodation, harassment, AIDS/HIV, and sexual orientation.

*(available in French or English)

Audio-Visual Materials

"The Eye of the Storm", New York: American Broadcasting Companies Inc., 1970. (28 min.)

16mm. film

Documentary about a 3rd grade teacher who uses eye colour as a basis to teach students the realities of prejudice and discrimination.

A list of discussion questions has been developed to accompany this film.

"Buttonville", The Alberta Human Rights Commission, 1979. (25 min.)

16mm. film

Cartoon story about plant people who are all required to wear identifying buttons. When one of the plant people loses his button the whole town learns a lesson about labelling.

A Teacher's Guide is also available which includes various learning activities for Grades 1-3 and Grades 4-6.

"A Different Approach", The South Bay Mayor's Committee for Employment of the Handicapped, 1978. (20 min.)

16mm. film

Designed to dispel myths and prejudices about employment of the handicapped, the film contains a series of comedy vignettes presenting handicapped individuals performing various job functions.

"The Workplace Hustle", Clark Communications, 1980. (30 min.)

16mm. film

A group of women and a group of men discuss sexual harassment in the workplace. Lin Farley, author of *Sexual Shakedown*, talks about sexual harassment, why it happens and the effect it has on its victims.

A list of discussion questions has been developed to accompany this film.

"See What I Say", Michigan Women Filmmakers, 1981. (25 min.)

16mm. film

The deaf discuss how American Sign Language enables them to communicate. A concert for the deaf by Holly Near illustrates the expressiveness and beauty of the language.

"Human Rights for the Deaf", 1982. (29 min.)

Video-tape 3/4 inch format

— A presentation about human rights made to the Kiwanis Centre for the Deaf, which was video-taped by Channel 13. It includes simultaneous translation in American Sign Language (ASL).

"The Charter and You"

Video-tape 3/4 inch format

— This 60 minute video-tape, prepared by Confederation College of Applied Arts and Technology for the Department of the Secretary of State, Canada, is accompanied by a Reference Guide and Teacher's Guide. It is intended to be an introduction to *The Charter's* provisions and how they impact upon individual Canadians in their every-day affairs.

"No One Can Take Them Away", 1987. (14 min.)

Video-tape VHS and Beta formats available

— This video was produced for schools by the Canadian Red Cross Society. It introduces the topic of human rights and includes information on the history of human rights, the Universal Declaration of Human Rights and landmark events in Canadian human rights history. The film also offers practical suggestions for action on human rights in Canada and the world.

"Human Rights, Human Wrongs", 1987. (30 min.)

Video-tape VHS format

— This video, directed at young people between nine and thirteen and their parents, features Rick Hansen who tells how his human rights are affected by his disability. Native Canadians, girls, women and members of ethnic minorities relate their own experiences with discrimination. The causes and consequences of intolerance are examined through personal interviews, dramatizations and audience participation. The video offers solid strategies for fighting discrimination and creating, instead, a proud record of human rights.

"A Class Divided", Yale University Films for Frontline, 1985. (58 min.)

Video-tape VHS format

— This film is a follow-up to "The Eye of the Storm". The teacher who first split her class in two according to eye colour, re-unites with several of her former students at the school reunion. The discussion between the teacher and her grown students about the long lasting effects of that exercise makes for very interesting viewing.

"What You Should Know About the Human Rights Act". (30 min.)

Video-tape VHS and Beta formats available

— Although this video-tape refers to The Human Rights Act, the basic content is still relevant under the new Human Rights Code. The tape is divided into three segments, each containing the same information — an explanation about the Commission, the protection offered under the legislation and information pertaining to complaints. Segment 1 is in the Cree language. Segment 2 is in the Island Lake dialect and Segment 3 is in Saulteaux (Ojibway) language.

"Trade Secrets: Blue Collar Women Speak Out," 1986. (23 min.)

Video-tape VHS format

— This video is excellent for screening to women in pre-technology and pre-trades programs, at high school career days, and to business audiences. Four women — an ironworker, a welder, a sprinklerfitter and an electrician, reveal how their lives changed when they entered traditionally male trades. They tell how they overcame the physical and personal obstacles to find satisfaction in their trades, greater financial power and a new sense of identity as journeywomen.

"AIDS: The Workplace Facts", 1988. (20 min.)

Video-tape VHS format

— This informative documentary produced by the Canadian Labour Congress and the Canadian Public Health Association, focuses on AIDS and workplace concerns. It reviews the medical evidence that AIDS/HIV infection is *not* transmitted by casual contact with a person who is infected with the virus. Protections from discrimination for persons with AIDS are discussed.

"Call Me Sister, Call Me Brother", 1988. (21 min.)

Video-tape VHS format

— Produced by Canadian Auto Workers/Barna-Alpha Productions, a perceptive look at sexual and racial harassment as experienced by plant workers. Through interviews and animated sequences, members of the Canadian Auto Workers Union examine the impact of harassment and discuss their union's harassment policy and procedure. Examples of sexist and racist language and conduct are presented and discussed.

"With a Little Help From My Friends". (60 min.)

Video-tape VHS format

— A video about creating schools where all students belong and learn together, produced by Marsha Forest and George Flynn. Includes talks among Forest, Judith Snow and the students and staff of St. Francis School, Waterloo Region Separate School Board in Kitchener, Ontario.

"One-to-One". (8.5 min.)

Video-tape VHS format

— This video explores communication problems between hearing and hearing-impaired people, especially in the service industry. It helps create sensitivity to these issues among hearing people, and includes valuable suggestions on how to serve a hearing-impaired person. Facilitator's guide available with the tape.

"Taking Action" (Petro Canada's Program on Sexual Harassment), 1986. (27 min.)

Video-tape VHS format

— Narrated by Peter Gzowski, this video explores sexual harassment in Canadian employment. Several vignettes show sexual harassment in the service sector, women in non-traditional work and the office. The video clearly explains the responsibility of the employer for maintaining a harassment free workplace.

"More Than Just a Job". (28 min.)

Video-tape VHS format

— This video looks at the job successes of seven developmentally disabled adults who work in "supported employment" — that is paid work in integrated employment settings.

APPENDIX B

MHRC USE ONLY/
RESERVÉ À LA CDPM
Rec'd by /Reçu par

Date

Complaint of Discrimination Under The Human Rights Code (Manitoba)

Discrimination — Plainte portée en vertu du code des droits de la personne (Manitoba)

File Number:/
N° de dossier :

Page ____ of ____/
____ page de ____

Name and Address of the Complainant/
Nom et adresse du plaignant

Name and Address of the Respondent/
Nom et adresse de l'intimé

Name and Address of any person or class of persons discriminated against in addition to or other than the Complainant(s)/
Nom et adresse de toute personne ou tout groupe de personnes au nom de qui ou avec qui le plaignant a porté plainte

The Complainant alleges that in the Province of Manitoba/
Le plaignant allègue que, dans la province du Manitoba

On or about the/ day of/
le, ou vers le _____ jour de _____, 19____;

OR/OU

on a continuing basis
up to and including the/ day of/
de façon permanente
jusqu'au _____ jour de _____, 19____

that the Respondent(s) did contravene section(s)/
l'(les) intimé(s) a(ont) violé les dispositions de l'(des) article(s) _____ of **The Human Rights Code**, or any other applicable section as follows:/ **du Code des droits de la personne**, ou tout autre(s) article(s) qui s'y rapporte(nt), de la façon suivante:

SAMPLE

I certify that the foregoing information is correct to the best of my knowledge and I believe that the events described above constitute a contravention of **The Human Rights Code**./

Je certifie par la présente que les renseignements susmentionnés sont, en autant que je sache, exacts et complets et que les faits cités constituent une violation **du Code des droits de la personne.**

City/Town Complaint Signed At/ Nom de la ville ou de la municipalité où la plainte a été portée	Date Day/ jour	Month/ mois	Year/ année	Signature of Complainant/ Signature du plaignant

APPENDIX C

Manitoba Human Rights Commission

Public Education Policy

The Manitoba Human Rights Commission believes that discrimination cannot be eliminated from the social environment through legislative sanctions alone. As stated in the preamble to *The Human Rights Code*, "much discrimination is rooted in fear and ignorance and education is essential to its eradication..." *The Code* then goes on to require the Commission to develop, promote and conduct educational programs which are designed to eliminate discrimination and which promote understanding of the rights and responsibilities contained within *The Code*. In addition, the Supreme Court of Canada has, in a number of decisions, emphasized the role of human rights commissions as agents of social change through education.

The resources available to administer *The Code* are limited. In addition to its responsibility to deliver educational programs, the Commission must also investigate and conciliate complaints from persons who believe that they have been discriminated against; and the Commission must issue advisory opinions to those who are attempting to ensure that their business practices are in compliance with *The Code*. It is therefore essential that resources are effectively utilized by establishing appropriate priorities. To this end, the Manitoba Human Rights Commission has adopted the following policy for 1991/92.

Policy:

Recognizing that the Compliance Unit is already over-extended and that there is a backlog of uninvestigated complaints, priority will be given to those activities which are designed to prevent discrimination rather than those activities which tend to encourage new complaints. The Commission will, however, continue to provide information to those who are most likely to experience discriminatory treatment to ensure that they are aware of the remedies available to them under *The Code*.

Through a program of business education, the Commission will endeavour to assist business in the development of practices and policies which are non-discriminatory and which will reduce the likelihood of complaints of discrimination arising out of misunderstandings. Preventative programs will also include those which promote the teaching of human rights in Manitoba schools and those which promote the initiation of special programs designed to eliminate barriers to equality and to eradicate the effects of historic and systemic discrimination.

In recognition of the International Decade of Disabled Persons and the 2nd International Decade for Action to Combat Racism and Racial Discrimination, the Commission will give priority to those educational activities which promote the objectives of these Decades.

While the Commission has established these priorities for public education programs at this time, it is aware of its obligation to ensure that human rights information is available to all residents of Manitoba, regardless of status or geographic location.

In order to obtain the maximum benefit of limited resources, an effort will be be made to encourage and support community groups who are able and willing to take the initiative in the delivery of human rights education.

This policy will be reviewed on an annual basis and the results of the review will be reported in the Commission's Annual Report.